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Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1205th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 17 March 1997, at 10 a.m.

Chairman: Mr. BANTON

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CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Twelfth to fourteenth periodic reports of Bulgaria

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GE.97-15926 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Twelfth to fourteenth periodic reports of Bulgaria (CERD/C/299/Add.7; HRI/CORE/1/Add.81 (English only))

1. At the invitation of the Chairman, the members of the Bulgarian delegation took places at the Committee table.

2. Mr. SOTIROV (Bulgaria) said that document CERD/C/299/Add.7, which contained his country's twelfth to fourteenth periodic reports, had been prepared by State agencies in cooperation with non-governmental organizations (NGOs), with the Committee's guidelines in mind. The report also contained information in response to the questions raised by the Committee during its consideration of Bulgaria's eleventh periodic report. Relevant information was also available in Bulgaria's second periodic report to the Human Rights Committee (CCPR/C/32/Add.17), its initial report to the Committee on the Rights of the Child (CRC/C/8/Add.29) and the core document (HRI/CORE/1/Add.81) submitted to the Centre for Human Rights at the end of 1996.

3. The transition towards a democracy related not only to the establishment of a new legislative system, but also to changes in ways of thinking. Although Bulgaria had achieved considerable progress in that area, it was unfortunately facing the most severe economic crisis in its history. The considerable politicization of Bulgarian society, the confrontation between the main political forces and government instability had been setbacks for the implementation of economic and legislative reforms and structural adjustment programmes.

4. In 1996, according to data from the European Bank for Reconstruction and Development, GNP had gone down by 10 per cent, inflation had reached 311 per cent and the value of the national currency, the lev, had fallen by 700 per cent against the dollar. Bulgarian National Bank reserves covered only half of the payments on the foreign debt due for 1997. The privatization rate had slowed down and large parts of the banking and financial sectors had collapsed. The situation had even worsened, as inflation had reached 392 per cent in the first two months of 1997. In addition, the sanctions imposed by the Security Council against Iraq and the former Yugoslavia, which Bulgaria had applied in good faith, had caused it to sustain economic and financial losses of over $6 billion. Regrettably, the international community had remained indifferent to that injustice.

5. The situation had led to a drastic decrease in living standards, considerable cuts in public spending and significant difficulties in financing public social welfare programmes. The average monthly salary had dropped from $120 four months earlier to the current average of $15. Prices of commodities, particularly foodstuffs, had been skyrocketing, and the overwhelming majority of the people were living under the poverty line. The deterioration of the economic situation had led the Government to resign in

December 1996, and under the guidance of the new President of the Republic, Mr. Stoyanov, the political forces had agreed that general elections would be held on 19 April 1997.

6. Tolerance had always been a Bulgarian national trait, but the all-embracing economic crisis had led some people to succumb to the exacerbated tensions. That attitude was understandable, if not justifiable.

7. Despite the serious economic, financial and political crises, the painful process of transition towards a market economy had not given rise to ethnic tension. After 1990 the minority rights of the Bulgarian Turks, the Muslim Bulgarians and the Muslim Gypsy community, including their cultural and educational rights, had been fully restored. Most of the Bulgarian Turks, Gypsies and Muslims had restored their original names which they had been forced to alter during the period 1984-1989. The Ministry of Education, Sciences and Technology had issued school textbooks in ethnic languages. In municipal schools the mother tongue of those minorities was taught through the eighth grade. Education in Turkish, Armenian, Roma and Hebrew was supervised by regional inspectors. The Government had also subscribed to the recommendations made by the Committee with regard to the national census held in December 1992. Every Bulgarian citizen had the right freely to declare his or her ethnic origin, mother tongue and religion.

8. He drew the members' attention to the situation of the Bulgarian Turks who had recently moved to Turkey mainly for economic reasons - the number of such migrants during the period 1993-1996 was estimated to be between 80,000 and 150,000. Most of them were living illegally in Turkey and ran the risk of being sent back to Bulgaria, which could aggravate their economic and social situation and jeopardize their opportunity to enjoy basic human rights and freedoms.

9. The protection and promotion of human rights had been a guiding principle of the Bulgarian legislative reform begun in 1989. Article 5, paragraph 4, of the 1991 Constitution stipulated that international instruments to which Bulgaria was a party took precedence over domestic legislation. They could therefore be invoked directly in the courts. At the same time, measures were being taken to update some laws and to ensure the strict implementation of existing legislation relating to the provisions of the Convention. Several laws had been amended since the preparation of the report; two had been adopted in 1996: the Radio and Television Act, which guaranteed the independence of radio and television programmes and prohibited censorship, and the Referendum Act, which enabled citizens to participate directly in the management of the State and the municipalities through national and local referendums.

10. Parliament was currently considering bills on amendments to the Code of Criminal Procedure and Code of Civil Procedure, protection of personal data and child protection.

11. The Constitutional Court played an increasingly important role in protecting basic constitutional rights and directly influenced the implementation of international instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination.

12. Some examples were Constitutional Court decision No. 7 of June 1996, in which the Court held that the State did not have the right to interfere in the activities of the media. In decision No. 21 of November 1996, the Court had declared several provisions of the Radio and Television Act of 1996 unconstitutional, referring inter alia to provisions of the International Covenant on Civil and Political Rights. In 1996, the Constitutional Court had rejected the claim submitted by 94 members of Parliament on the alleged unconstitutionality of the Movement for Rights and Freedoms.

13. The division of powers and the independence of the judiciary were basic constitutional principles of Bulgaria's legal system. The judicial reform had not been finalized, however - the courts of appeal had not yet been established and the new Code of Civil Procedure and Code of Criminal Procedure not yet adopted - owing to the absence of a law on the Supreme Administrative Court. In addition, the judiciary also lacked resources and qualified judges. The crime rate was rising and the district courts were overloaded. Law enforcement officials were not always fully aware of basic human rights and the way in which all members of society should be treated. There were still sporadic manifestations of intolerance and hatred. It could therefore not be said that all the rights enshrined in the International Convention on the Elimination of All Forms of Racial Discrimination were fully enjoyed. Nevertheless, the Government and society as a whole were taking serious steps to combat such manifestations and punish those responsible. For example, in the period 1994-1996, 75 disciplinary measures had been imposed on law enforcement officials responsible for human rights violations.

14. Efforts were being made by both State authorities and national NGOs to raise public awareness of human rights. Several ministries and public institutions conducted training courses for teachers, judges, prosecutors, police and prison officials, in accordance with the spirit of article 7 of the Convention. The previous June, a seminar on psychology had been held in Sofia for members of the police force.

15. Particular emphasis was placed on United Nations documents. After the Committee's consideration of the eleventh periodic report, the Ministry of Foreign Affairs, in cooperation with the Centre for Human Rights, had arranged for Human Rights: A compilation of international instruments and ABC: Teaching Human Rights to be translated into Bulgarian and circulated among interested national public agencies, NGOs and educational and law enforcement agencies.

16. An issue repeatedly raised by NGOs was the "discriminatory treatment" of the Roma in Bulgaria. Indeed, with the transition to a market economy and the radical changes which the society was experiencing, the Roma were in a very difficult social and economic situation, and many of them were on the verge of mere subsistence. As mentioned in the report, hunger, poverty and lack of job opportunities had compelled many Roma to reassess their traditional values and norms of behaviour. Thirty-seven per cent of all crimes in the country had been perpetrated by Roma. As a result, there was a growing tendency among Bulgarians to move out of Roma neighbourhoods for fear of being subjected to thefts, threats or physical assaults.

17. The authorities were endeavouring to improve the social and economic conditions of the Roma and to provide them with opportunities equal to those of the other Bulgarian citizens. A number of projects were under way with the participation and cooperation of international governmental and non-governmental organizations. The Confederation of Roma in Bulgaria was increasingly involved in that process as an NGO represented in the National Council on Social and Demographic Issues. An intergovernmental group had been set up within the Council and had worked out a programme of measures to address the problems of Roma in Bulgaria. By decision No. 163 of 30 January 1997, the Council of Ministers had adopted that programme, which basically covered the following areas: unemployment and social protection of the Roma population; creation of favourable conditions for gradually resolving the housing problems of Roma; a policy of health protection for the vulnerable groups of the population; land settlement for landless citizens; and measures to encourage the education of Roma children and to promote the cultural activities of the Roma population. The programme would be funded at the national level and conducted in cooperation with international and national non-governmental organizations.

18. On the suggestion of the Ministry of Health, one of the main aspects of the programme was health protection for Roma. Activities were scheduled to be carried out in close cooperation with the Bulgarian Red Cross and a number of NGOs.

19. In its efforts to combat human rights violations and racial intolerance, the Government cooperated with various international NGOs concerned with human rights. The Government had informed Amnesty International of the measures it was taking to ensure that officials responsible for human rights violations were brought to justice. A number of meetings had been held at which high-ranking police authorities had been informed of the need for strict respect for human rights, including the rights of persons belonging to ethnic, religious or linguistic minority groups. The Government intended to continue cooperating with the Committee and regarded the Committee's concluding observations and recommendations as an important part of the implementation of its human rights policies.

20. Mr. WOLFRUM (Country Rapporteur) pointed out that the serious economic and social situation Bulgaria was experiencing had repercussions on the implementation of the Convention. Although he welcomed the additional information provided in the core document (HRI/CORE/1/Add.81) and the pamphlet of the Department of Human Rights and Humanitarian and Social Cooperation of the Bulgarian Ministry of Foreign Affairs (Situation of Roma in Bulgaria, February 1997), he regretted that those documents had been submitted late to the Committee. He welcomed the report's detailed discussion of the country's new Constitution (CERD/C/299/Add.7, paras. 3-7 especially). He would like more information on the laws mentioned in paragraph 9 of the report, especially the Law on Names of Bulgarian Citizens, the Law on Amnesty and Restitution of Sequestered Properties and the Law on Political and Civil Vindication of Repressed (Persecuted) Persons and on their implementation. Had Bulgaria's declaration under article 14 of the Convention been published? Was the Convention available in Bulgarian and in the languages spoken by the Turk and Roma peoples?

21. He referred to some of the questions raised during the consideration of Bulgaria's eleventh periodic report (CERD/C/SR.918, para. 26) on the distribution of the population, the situation of the Muslim Turks, the Gypsies, the Armenians, the Jews, the Macedonians, the Greeks and other ethnic groups and on the languages spoken by each group, its level of education, its social and cultural development, the number of marriages between members of different ethnic groups and the situation of the various religions in Bulgaria. He noted that the list of ethnic groups included in the 1992 census (CERD/C/299/Add.7, para. 92) was not exactly the same as the one given in the core document (HRI/CORE/1/Add.81). Some groups were not mentioned in either one document or the other and some were left out of both.

22. He asked for details on the percentage of the Roma population, which several experts estimated at 6 per cent. Some Roma allegedly told the authorities that they were Turks or Bulgarians. Why were the Pomaks not mentioned in the statistics? He doubted the justification of the Bulgarian Parliament's decision to cancel the results of the census in two regions because many Pomaks had registered as Turks. The Pomaks could be considered as a full-fledged ethnic group in accordance with article 1, paragraph 1, of the Convention and the Committee's General Recommendation VIII. He would like additional information on the socio-economic situation of the Turkish minority and on the implementation of the Law on Names of Bulgarian Citizens (para. 9).

23. It would also be useful to have more information on the Wallachians and the Karakachans (para. 92) and on the measures taken on their behalf. Although he regretted that the Bulgarian Government had not provided any information on either the Armenians or the Greeks, he welcomed the information in the report and core document on the Jews and would like to know more about the small group of Arabs mentioned in the report (para. 92). Concerning the Macedonians, who had not been included in the statistics since 1956, he asked the delegation why that group had not been recognized pursuant to article 1, paragraph 1, of the Convention and why the organization representing Macedonian interests had not been registered.

24. He welcomed the information provided on the Roma and asked for more information on the programmes conducted to improve that group's very difficult social and economic situation (para. 104). He found the information in paragraph 106 of the report to be quite disturbing and suggested that the Bulgarian Government should avoid generalizations. The fact that Bulgarians were tending to leave neighbourhoods where Roma were living might lead to segregation. Had the Bulgarian Government taken legislative or administrative measures to improve the situation of the Roma, especially in connection with article 2, paragraph 2, of the Convention?

25. The information provided on the Turkish minority was much less detailed than that provided on the Roma. In that connection he would like clarifications of paragraph 94 of the report. What did the Bulgarian Government mean by its statement that the housing problems of Bulgarian citizens of Turkish origin had been "resolved to a great extent"? What did the following sentence mean? Had property rights been restored or compensation provided? What percentage of the population was concerned? Were farms included? What had happened to the occupants of the returned houses?

26. Further information had been requested on the organs administering justice, in particular the right to security of person and protection by the State against violence or bodily harm (CERD/C/SR.918, para. 31). Comprehensive information had been provided about the legal framework and the courts, but less about the implementation of the system. He would like clarification of paragraph 33 of the core document (HRI/CORE/1/Add.81), which appeared to contain contradictory statements. Further information on the commissions was needed as well as on the work of the administrative courts. It was essential to build up the people's confidence in those bodies. He asked the delegation again about the question of prohibition of political parties formed on an ethnic basis (CERD/C/SR.918, para. 43), to which Mr. Koulishev had replied (CERD/C/SR.919, paras. 26 and 27). He asked again what was being done to increase the awareness by judges and the police of the problems of the Turkish ethnic minority (CERD/C/SR.919, para. 36).

27. Turning to the implementation of article 2 of the Convention, he referred to several cases which had occurred between 1994 and 1996, in which the police had committed abuses and brutalized members of the Turkish and Roma minorities. Such incidents showed that the provisions of the Penal Code and the Constitution were not fully applied when protection of the fundamental rights of minority Bulgarians were at stake. It would therefore be useful to receive information on court action taken in those cases.

28. According to the Commission on Human Rights report on the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (E/CN.4/1995/NGO/17), there was substantial evidence that during 1995 the Bulgarian police and judicial authorities had failed to investigate acts of violence promptly and thoroughly when the victim was Roma. According to data of the Ministry of the Interior, during 1995 there had been numerous serious cases of human rights violations by the police against members of the Roma community, including 18 deaths due to police negligence. Penalties had been imposed on a number of police officers, but the police had generally refused to make investigative reports available to the public.

29. There had been numerous cases of police abuses and violence in 1996, primarily directed against ethnic minorities. It was therefore his impression that the authorities' efforts to guarantee the rights and freedoms of Bulgarian citizens and their integration into society regardless of ethnic origin, referred to in paragraph 24 of the report, were insufficient. In particular, there were serious doubts as to whether the provisions of article 6 of the Constitution, which guaranteed the equality of all Bulgarian citizens, were fully implemented. The police and security forces did not appear to be sufficiently accountable to Parliament, and the resultant climate of impunity was a major obstacle to ending police abuses.

30. The Government should actively seek solutions to that situation and ensure that the training of police officers included the study of and respect for the fundamental rights and freedoms of the members of the different ethnic groups.

31. Regarding freedom to teach the Turkish language, according to the Ministry of Education there were 844 Turkish language teachers for 64,000 children, and teachers were training in Turkish universities under a bilateral agreement with the Turkish Government. That situation with regard to the teaching of the Turkish language appeared to be encouraging.

32. The situation was less satisfactory, however, with regard to the education offered Roma children, who apparently received inferior education, despite efforts by the Government, which had been largely unsuccessful in keeping them in school. The seven pilot schools designed specifically for Roma children, opened in cooperation with UNESCO, had had good results but were under financial constraints. The introduction of Roma-language schoolbooks had had mixed success. He hoped that Bulgaria would provide the Committee with further details on those questions.

33. Regarding the implementation of article 3 of the Convention, he referred to the Committee's General Recommendation XIV. The provisions of the Bulgarian Penal Code appeared to be sufficient as far as the implementation of article 4 was concerned. He would, however, like additional information on how the Penal Code was actually applied.

34. Since it was prohibited to form political parties on an ethnic basis, he was surprised to see such organizations as the United Macedonian Organization Ilinden and the Movement for Rights and Freedoms, which were heavily ethnic in nature. He wondered on what criteria the judicial authorities based themselves to ensure respect for the principle of political pluralism in accordance with the legal provisions in force in Bulgaria.

35. With regard to article 5, he noted that discrimination in the workplace against minorities, especially Roma, continued to be a problem. High-paying or supervisory posts were generally given to ethnic Bulgarians. During military service Roma and Muslims were often shunted into units where they performed work unrelated to such service, in violation of the ILO Conventions; additional information was needed on that question. The right of the Roma people to social security and their right to own property also appeared not to be fully respected.

36. The Bulgarian legal system satisfied the Convention's requirements, and its implementation and that of the Constitution had been considerably improved, except with regard to the behaviour of the police forces and the integration of certain groups, in particular the Roma, in the workplace and the social security system.

37. Mrs. SADIQ ALI said that she would like additional information on the role of the Special Counsellor to the President of the Republic on Ethnic Questions and on the measures the Government planned to take to combat discrimination against the Roma and other minorities (paras. 23 and 24). She would also like to know what measures had been taken to combat acts of racial discrimination and xenophobia (para. 63) and what was meant by "persons violating the principle of freely entered marriages" (para. 66). In addition, she requested clarification of the meaning of the term "Muslims", which was used in the report concurrently with the term "Bulgarian Turks", and the term "Bulgarian Muslims" (para. 69). She also inquired how many of the more

than 300,000 Bulgarian Turks who had emigrated to Turkey had returned to Bulgaria and why the Bulgarian National Television was the only major medium that did not provide daily broadcasts in Turkish in the regions predominantly inhabited by Bulgarians of Turkish origin (para. 97). Lastly, she would like to know how paragraph 125 should be interpreted.

38. Mr. VALENCIA RODRIGUEZ emphasized the positive aspects of the Bulgarian report, especially the fact that international standards, in particular the Convention, took precedence over national legislation and the provisions of the Constitution. He noted with satisfaction that Bulgaria had made the declaration under article 14 of the Convention.

39. He was pleased to see that articles 162 and 163 of the Penal Code penalized propaganda inciting to racial hatred and would like further information on the penalty of obligatory resettlement in article 162, paragraph 5. He also requested more details of the racist and xenophobic attacks against ethnic minorities referred to in paragraphs 40 and 41 and how those responsible had been punished, as well as clarification of the - apparently unfair - application of the prohibition against establishing political parties or organizations on ethnic grounds to the Roma and Pomak minorities (para. 73). Additional information also appeared necessary on the current socio-economic difficulties, and he encouraged the Government to continue its large-scale efforts on behalf of minorities, with support from the international community if necessary.

40. Mr. de GOUTTES emphasized the quality of the report of Bulgaria, which had endeavoured to reply to several questions asked during the consideration of its eleventh periodic report, and had not skirted the issue of the racist and xenophobic behaviour of Bulgarian citizens exasperated by the difficulties linked to the serious economic crisis and insecurity.

41. He took particular note of the efforts made by the Bulgarian authorities to ratify the international human rights instruments, in particular the declaration provided for in article 14 of the Convention, and observed that the criminal legislation appeared to meet the requirements of article 4 of the Convention. He also took note of the remarks in paragraph 126 to the effect that eminent Bulgarian jurists were of the view that there were still inadequacies with regard to the protection of human rights in Bulgaria.

42. Since the Bulgarian delegation had acknowledged an increase in racist and xenophobic acts in Bulgaria, he had been surprised to read in paragraph 43 that four cases of incitement to racial hatred falling under the purview of article 162 of the Penal Code had been discontinued as constituting misdemeanours and that eight other cases had been considered as not involving racial discrimination. Were such irregularities due to the ineffectiveness of the judicial system or the citizens' distrust of the system of justice? Bulgaria's next report should contain additional information on complaints and convictions in that area.

43. Knowing how attached Bulgaria was to the principle of prohibition of political parties founded on ethnic grounds, he wondered at the strictness of the criteria used to determine whether political parties were ethnically based. Paragraph 73 of the report stated that although the Ilinden Party and

the Turkish Democratic Party had been refused registration with the argument that they were founded on ethnic grounds, others such as the Pomak Movement and the Movement for Rights and Freedoms had been authorized (para. 100), and that Roma participated in political life in the country through parties represented in the Parliament. Did that mean that the issue was more generally related to political considerations?

44. He hoped that the Bulgarian Government would consider establishing a national human rights commission. Such a body would undoubtedly help to create social cohesion, for it would lead to cooperation among the representatives of the different components of society.

45. Mr. van BOVEN commended the Bulgarian delegation for the quality of its report, which was much above average. He associated himself with the various questions and observations of the other members of the Committee and was happy to note that the problems of citizens other than ethnic Bulgarians were being satisfactorily resolved.

46. The situation of the Roma had been presented so frankly that it appeared to be even more disturbing than had been thought. The Government seemed to be perfectly aware of the problem, but he noted from page 13 of the pamphlet published by the Ministry of Foreign Affairs on the question that crime was 20 times higher among Gypsies than among Bulgarians. He did not contest that figure, but he found it rather odd for a distinction to be made between Gypsies and Bulgarians, as though the Gypsies were not also Bulgarian citizens. Such language ran the risk of encouraging the "negative stereotypes towards the Romas" mentioned in paragraph 107 of the report.

47. He had not been able to study in detail the programme for resolving the problem of the Roma in Bulgaria but the projected affirmative action measures appeared to be in conformity with article 1, paragraph 4, and article 2, paragraph 2, of the Convention. The question of Roma participation in political life in Bulgaria, however, might be given greater attention. As it was not likely that Bulgaria's current economic difficulties would enable the Government to find the resources needed to finance the programme, it might be advisable for the Committee to make a recommendation with a view to requesting cooperation from the international community.

48. Referring to paragraph 40 of the report, which spoke of a number of serious incidents that had occurred in Roma neighbourhoods in 1994, he asked what measures had been taken to punish those responsible. In conclusion, he said that Bulgaria's report was a document of high quality, and both it, the pamphlet of the Ministry of Foreign Affairs and the Committee's concluding observations should be given nation-wide circulation.

49. The CHAIRMAN, speaking as a member of the Committee, stressed that the international community and NGOs should cooperate with the Bulgarian Government to resolve the problem of the Roma. The Government could not make progress in combating crime without participation from the minorities themselves.

50. Mr. CHIGOVERA, referring to paragraph 4 of the report, said he wondered whether article 5 (4) of the Constitution meant that the State was bound by the Constitution to incorporate the Convention into national legislation. He also found that article 44 (2) of the Constitution, which prohibited "any organization conducting activities against the country's sovereignty and its territorial integrity, against the unity of the nation, and trying to foment racial, nationalistic, ethnic or religious hatred" (para. 8), and article 37 (1) of the Constitution, which stipulated that "Freedom of conscience, freedom of thought and the choice of religion and of religious or atheistic beliefs, shall be inviolable" (para. 68), were somewhat contradictory. Reports by the NGO Human Rights Watch for 1995 and 1996 stated that one organization, the United Macedonian Organization Ilinden, had not been given permission to meet in memory of a historic Macedonian leader or celebrate the anniversary of the establishment of the Republic of Macedonia. The reports also questioned amended article 133 (a) of the Law relating to Persons and the Family, which governed the registration of religious organizations without indicating on which grounds registration might be refused. He wondered whether article 133 (a) was in conformity with article 37 of the Constitution, and whether the way in which the law was worded did not raise the risk of wrongful refusal to register non-traditional Bulgarian religious organizations.

51. Mr. ABOUL-NASR, reverting to the situation of the Roma, said he feared that the figures provided on crime, although they did reflect the facts, might be used to stigmatize the members of the Roma community. The question of the Roma had been neglected by the international community, which, like the Government, had responsibilities towards it. In terms of financing, in particular, international cooperation was indispensable, and he wondered whether the Bulgarian authorities had contacted certain organizations, such as the Council of Europe, in order to obtain assistance for conducting the projected programme.

52. He suggested that the Committee should take the initiative of recommending the establishment of a Fund for all the communities that had been victims of the Holocaust (in other words, also in favour of the Gypsies, who to his knowledge had never received the slightest compensation). Resources from the Fund could be used to finance programmes such as the one prepared by the Bulgarian Government for the Roma.

53. Mr. SHAHI said that Bulgaria had made commendable progress towards political democratization and economic liberalization, under extremely difficult conditions, and he was pleased to note that it had made the declaration under article 14 of the Convention. He also noted with satisfaction that a number of laws had been enacted creating guarantees for the restoration and protection of the rights of Bulgarian citizens of Turkish origin (para. 20) and that all religious rights and freedoms of those citizens and of Bulgarian citizens of the Muslim religion had been lifted (para. 95). He would like more details on the composition of the Muslim minority in Bulgaria, especially the Bulgarian Muslims mentioned in paragraph 69.

54. Citing article 11, paragraph 4, of the Constitution (report, para. 7), which stipulated that no political parties could be formed on an ethnic, racial or religious basis, he asked how the members of ethnic or religious minorities could exercise their political rights. No doubt they could join other parties. It appeared from paragraph 100 of the report that the Turkish minority was well integrated into political life in Bulgaria. In reference to paragraph 24 of the report, he asked whether religion was not a barrier to the integration of ethnic minorities.

55. The CHAIRMAN said that the Committee would resume its consideration of the twelfth to fourteenth periodic reports of Bulgaria at its next meeting.

The meeting rose at 1 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1206th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 17 March 1997, at 3 p.m.

Chairman: Mr. BANTON

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Eleventh periodic report of Mexico

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GE.97-15947 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Eleventh periodic report of Mexico (CERD/C/296/Add.1; HRI/CORE/1/Add.12/Rev.1)

1. At the invitation of the Chairman, the members of the delegation of Mexico took seats at the Committee table.

2. Mr. GONZALEZ FELIX (Mexico) said that, as requested by the Committee, the eleventh periodic report (CERD/C/296/Add.1) was an updating report and would concentrate primarily on the situation of the indigenous populations in Mexico, including the present situation in the State of Chiapas, and questions of migration, on both the northern and southern borders of the country.

3. His Government acknowledged the existence of certain forms of racial discrimination in the country which were the result of historical factors going back to the nineteenth century. Some forms of discrimination had more to do with socio-economic differences than with any distinction between ethnic groups and had been addressed through various government social development programmes for the most vulnerable groups, namely, indigenous and other marginalized communities in both urban and rural areas. Extreme poverty among indigenous communities and the situation of migrants were also results of population growth.

4. Some of the information provided in the report needed updating, since the Government was pursuing its efforts to improve the lot of the indigenous populations and migrants and to achieve a just and worthy peace in Chiapas. Between October 1995 and May 1996, a nationwide consultation on rights and indigenous participation, involving some 23,000 persons from all sectors of society through meetings and events of various kinds, had been held under the auspices of the federal executive and legislative authorities in order to broaden the debate and exchange views with the ultimate aim of achieving national consensus on the new relationship between the Mexican State and the indigenous peoples. The consultation had yielded 12,000 proposals on a wide variety of issues and confirmed the existence of 56 languages spoken by some 10 million Mexicans.

5. In May 1996, its main conclusions had been formally submitted to the President of the Republic, who had referred in his statement on that occasion to the concept of autonomy, which should be seen as conducive to the development of the indigenous peoples without undermining national sovereignty or unity. Summing up the findings of the consultation, which would form the basis for the new relationship between the State and the indigenous peoples, he had referred to its recommendation on the need to amend the Constitution and relevant laws in order to provide clear guarantees for indigenous rights, specify the equality of all Mexicans and ensure that indigenous communities were duly represented in public life. The reforms should guarantee their effective access to justice and their languages and customs should be taken into account in the administration of justice. Their lands and heritage must be legally protected, bilingual multicultural education guaranteed and the rights of indigenous women upheld. A series of reforms of federal legislation

must be undertaken. The indigenous communities must become active participants in development, which should be based on their cultural diversity, traditions and customs. The President had affirmed the Federal Government's commitment to following the recommendations of the nationwide consultation through specifically targeted programmes in the areas of health, education, nutrition, housing, public services, communication, training, the promotion of productive activities and access to justice, including legal aid and the use of indigenous languages. He had reaffirmed the multicultural, multi-ethnic character of the nation.

6. The Government had taken significant steps to promote the educational and cultural development of the indigenous peoples and eradicate all forms of apparent racial discrimination. It had undertaken to build a new social compact which would radically change the social, political, economic and cultural relations with indigenous peoples and enable them effectively to enjoy their rights; the new relationship would be based on respect for the right to be different, recognition of indigenous identities as intrinsic components of Mexican nationhood and acceptance of their distinctive features as being consubstantial with the multicultural legal order of the Mexican State. It was a relationship of inclusion, permanent dialogue and consensus, so that the indigenous peoples could themselves determine the means of achieving their own development. Mexico was currently undergoing a process of self-assessment and enhancement of its traditional indigenous values with a view to rebuilding a unified nation that would be the Mexican model for the twenty-first century.

7. The Government had recognized the need to enshrine in the Constitution the right of all Mexicans to multicultural education rooted in indigenous culture as the foundation of national identity and was promoting laws and policies to place indigenous languages on an equal footing with Spanish, together with practices to ensure that there was no discrimination in administrative and legal procedures. While developing the teaching of indigenous languages and literacy instruction in the mother tongue, the necessary steps were being taken to enable indigenous people to acquire proficiency in Spanish. The Government was committed to providing education for the indigenous peoples within the parameters of their own cultural identity and was allocating the necessary resources to carry out the educational and cultural programmes determined by the indigenous communities and peoples themselves, in order to ensure free, high-quality education. Their involvement in selecting and certifying teachers was also encouraged.

8. Turning to the question of indigenous detainees, he said that his Government had amended article 4 of the Constitution to bring it into line with ILO Convention No. 169. An important development had been the signing of a cooperation agreement between the General Directorate for Prevention and Social Rehabilitation and the National Indigenous Institute to investigate the cases of indigenous individuals held in detention centres with a view to enabling them to return to their communities and securing their early release. The participation of the National Human Rights Commission (CNDH) had resulted in the early release of most of the individuals whose cases had been put forward by the Commission. The recently created office of the Special Procurator for Indigenous Affairs had provided legal assistance for the review of the records of detainees, and in the previous 12 months 31,950 cases had

been reviewed. In the same period, the work of the General Directorate for Prevention and Social Rehabilitation had resulted in the release of 438 indigenous detainees.

9. Turning to the current status of the peace process in the State of Chiapas, he reaffirmed the Government's political will to achieve peace through dialogue and negotiation, despite unilateral decisions by the Zapatista National Liberation Army (ZNLA) - eight in all - to suspend the negotiations. It regarded the current suspension as temporary and was prepared to resume them at any time, in accordance with the Dialogue, Conciliation and Worthy Peace in Chiapas Act. In 1996, ZNLA had suspended the talks on two occasions, most recently in September 1996, when it had laid down five additional conditions for resuming them. Even though that decision violated the spirit of the July 1996 agreements under which only the Concord and Peace Commission (COCOPA) and the National Mediation Commission (CONAI) were authorized to suspend the dialogue, the Government had restated its willingness to meet those conditions and guarantee that no coercive action would be taken. Specifically, it had freed the alleged Zapatista detainees in Cacalomacán and Yanga. With regard to the attitude of the government negotiators and their decision-making capacity, the Government had reiterated its commitment to an attitude of respect for the ZNLA delegates and had reaffirmed its representatives' full decision-making authority in regard to any item on the jointly agreed agenda.

10. The Commission for Monitoring and Verification of the Peace Agreements (COSEVER) had been set up on 7 November 1996. At its first meeting in December 1996, initial agreements had been reached on resources and working methods and its first coordinator had been appointed for a period of three months. The Government had undertaken to submit the Indigenous Rights Bill to ZNLA before it was forwarded to Congress through COCOPA. The Government and ZNLA had exchanged documents and views on the drafting of the constitutional reform, but no agreement had been reached as yet, mainly on account of ZNLA's rejection in January 1997 of the Federal Government's observations, which had in fact amounted merely to legal technicalities relating to the constitutionality of the proposed reforms. On 4 March 1997, COCOPA had issued a communication intended for the Federal Government, ZNLA and public opinion in general, proposing its good offices in meeting the parties and seeking solutions. COCOPA's efforts, and those of CONAI, were much appreciated by the Government, which had restated its determination to find a solution through dialogue and negotiation and demonstrated its desire for reconciliation and renewed confidence in its dealings with ZNLA, inter alia by associating two leading members of ZNLA with the peace process. All the conditions laid down by ZNLA had therefore been met, with the exception of the incorporation into the Constitution of the San Andrés agreements on rights and indigenous culture, to which no definitive solution had as yet been found, the main reason being the very extensive scope of the agreements and their impact on secondary legislation and administrative and institutional procedures.

11. The Government did not repudiate those agreements and had no intention of renegotiating them, but had submitted observations on COCOPA'a proposals for constitutional amendments, calling for a revision of the proposed texts to ensure that they were clearly worded. The Government believed that ZNLA's objections to those observations could be explained by its unfamiliarity with

juridical and legislative procedure rather than any intransigence on the Government's part. Talks were continuing with a view to reaching a consensus on the wording. The delay on that point was, therefore, merely a formal setback.

12. The National Programme for the Protection of Migrants, carried out in coordination with the National Migration Institute, responded to the Government's commitment to safeguarding human rights, implementing international agreements and protecting the rights of Mexicans in the United States of America. Under the Programme, protection groups for migrants, now numbering five on the northern border and one on the southern border, had been set up as a cooperative mechanism between the federal, State and municipal Governments, coordinated by the National Migration Institute, to combat criminal offences by individuals or officials against migrants, whether or not they were in possession of documents. A particularly important development had been the establishment in May 1996 of the Beta Sur migrant protection group operating in Soconusco, Chiapas, following a recommendation by the National Human Rights Commission. The protection groups had proved their effectiveness by significantly reducing the rate of crimes against migrants.

13. The authorities had compiled a human rights primer for migrants which was intended to inform them of their rights under the Constitution and other laws in Mexico, their obligations during their stay in Mexico and the institutions they could turn to for help or to lodge complaints. The primer was being distributed by a number of bodies in Mexico and Mexican consulates abroad.

14. In 1995, the Migration Supervision Programme had been launched. It provided for constant supervision of activities and procedures relating to the inspection, monitoring and control of migrants by officials of the National Migration Institute, and of migrants' rights. The Programme was initially operating in the State of Chiapas but would ultimately be extended to cover all migration offices.

15. With a view to promoting respect for human rights among staff dealing with migrants, human rights training courses had been organized for migration officials and officials called on to deal with foreigners without documents. The National Human Rights Commission and UNHCR had provided assistance in that regard. The Government was also trying to improve conditions in centres where migrants were held while their status was being determined.

16. In 1995, a framework for cooperation between the Governments of Mexico and the United States had been set up, to improve communication between the border authorities of both countries and ensure respect for the human rights of migrants on both sides of the border. Similar structures had been set up in collaboration with the Governments of Guatemala, Honduras and Costa Rica; it was hoped that they would be extended to include the Governments of El Salvador and Nicaragua.

17. With regard to policies for protecting Mexicans in the United States and ensuring that they enjoyed adequate standards of living and respect for their

human rights, of particular note was the National Development Plan 1995-2000, which aimed, inter alia, to provide comprehensive consular protection.

18. In the area of protection measures, his Government believed that the best way to deal with problems relating to migration was to engage in dialogue and bilateral cooperation. To that end, the United States Immigration and Naturalization Service had set up a Citizens' Advisory Panel to look into how the Department of Justice dealt with complaints against border guards. The Department of Justice had invited his Government to send a representative to participate in the Panel.

19. In March 1996, his Government had held a meeting on migration which had been attended by Governments of the region. The meeting had stressed the importance of an exchange of views and experience on the phenomenon of migration and the need to examine why and how it arose and its regional aspects in order to decide how the Governments could best work together to deal with it.

20. A pilot programme had been set up in San Diego, California, for the voluntary repatriation of Mexicans who had been arrested by the migration authorities in the city. The programme provided for the repatriation of the person concerned to his place of origin, whereas before the only options had been for him to voluntarily return to a border port or to go before a judge who dealt with migration cases. The programme aimed to promote family reintegration and provide special protection for minors.

21. For his Government, protection meant improving preventive measures and modernizing the system of consular protection in the United States. New life had been breathed into intersectoral coordination, which had helped reduce the number of violations and complaints. Consulates were helping to publicize the "Compatriot Programme (Programa Paisano)" through the Spanish-speaking media. They were also disseminating information to migrants on their rights and responsibilities while they were in the United States. They provided advice on contacts with the American authorities in order to reduce any possibility of ill-treatment and their right to contact the consulate if they were ill-treated. The Consulate Development Plan 1996-2000 had been launched in the second half of 1996. It provided for a broad range of measures to improve the coordination of the Mexican consular system, increase the efficiency of human and material resources, and modernize working methods.

22. A system of "mobile consulates" had been set up in the United States: consular officials visited the various Mexican communities living within the districts they covered in order to make consular services more accessible. The system had gathered momentum since its inception, and it was hoped that it could become a permanent feature of the work of all consulates in the United States.

23. With a view to improving legal services, consulates had been instructed to expand the network of legal advisers and find lawyers, preferably of Mexican origin, who could defend the rights of Mexicans in the United States. An agreement had been signed between the Consulate-General in Los Angeles, California, and the Mexican-American Lawyers' Association for the provision of free legal advice to Mexicans.

24. A programme had also been launched to bring together and provide for ongoing dialogue among authorities and leaders of social groups from the States, municipalities and areas of origin of migrants in order to find out how they viewed the phenomenon of migration and what kinds of protection needed to be provided.

25. His Government recognized that continuity, time and consistency were needed for progress to be made. However, Mexico was ready to try to establish the conditions for full observance of the rights enshrined in the International Convention on the Elimination of All Forms of Racial Discrimination.

26. Mr. de GOUTTES (Country Rapporteur) paid tribute to Mexico's rich cultural heritage, which had profoundly influenced its modern-day society. He also commended the fact that, in line with the Committee's recommendations on the submission of reports, Mexico had submitted its eleventh periodic report just 18 months after the tenth report and provided updated information on the radical changes under way in the country and particularly in the State of Chiapas. It consisted of five sections that had taken account of the concerns raised by the Committee during consideration of the report in 1995.

27. He had obtained information on the situation in Mexico from a range of sources. The sources included other United Nations bodies; the reports of the Special Rapporteur on torture (E/CN.4/1996/35 and Add.1); the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1996/38); and the conclusions of the Committee on the Rights of the Child (CRC/C/15/Add.13) and of the Committee on Economic, Social and Cultural Rights (E/C.12/1993/16); documents produced by NGOs, including the Anti-Racism Information Service (ARIS), Amnesty International and Human Rights Watch; a bulletin issued by the Mexican Human Rights Academy, 1995; a document produced by International Educational Development (E/CN.4/Sub.2/1996/NGO/6); a United States State Department report on human rights practices; a detailed report on racial discrimination in Mexico compiled by the Miguèl Agustin Pro Juarez Centre for Human Rights, the Fray Bartolomé de la Casas Centre for Human Rights and La Chinantla Indigenous Peoples' Organization; and finally, the report compiled by the Mexican League for the Defence of Human Rights.

28. The first question which arose related to discrimination on racial or ethnic grounds in Mexico, as defined in the Convention. He refuted the view of the Mexican Government that the only form of discrimination in Mexico was based on social and economic inequalities which affected the most vulnerable sectors of society. For the Committee, the marginalization and impoverishment of vulnerable groups amounted to discrimination under articles 2-5 of the Convention, not least because they were unable to participate in social and economic development, and were being perpetuated despite the legislative and other measures taken by the Government.

29. Although the Committee had requested information on the size of the indigenous population in Mexico and the 56 ethnic groups, details had not been forthcoming, since the delegation had previously expressed the view that it was discriminatory to break the population down according to race, ethnic group or religion. The approximations given, based merely on linguistic criteria, were not enough to give a true picture of the size of the indigenous population. It was also worrying that the delegation had stated in 1995 that

assessing the indigenous population was an even more complicated operation in that certain indigenous groups tried to hide their ethnic origins because of the connotations of poverty that went with them. More precise information should be provided in a subsequent report, as should information on the size of the immigrant population which, judging from section IV of the eleventh report, seemed to have grown considerably.

30. He asked how the situation had developed in the State of Chiapas since the outbreak of conflict in 1994 and the Government's decision to seek a political rather than military solution, as noted in the Committee's concluding observations in 1995 (A/50/18, para. 377). The detailed information provided in the eleventh report and in the oral presentation was welcome and seemed to indicate that positive developments were under way. However, information from various NGOs took a more critical view of what was happening in the State of Chiapas.

31. According to the report of the Miguel Agustin Pro Juarez Centre for Human Rights, the Commission for Monitoring and Verification of the Peace Agreements had been thwarted in its work as a result of government intransigence in the application of the San Andrés agreements on indigenous rights and culture and the fact that legislation proposed by COCOPA had not been put before Congress. The President of Mexico had been criticized for a lack of political will to implement the agreements and for his loss of political credibility among the populations concerned. The report also alleged that the army had gradually infiltrated the State of Chiapas and set up 30 bases, which had disrupted the environment and the life of the indigenous population. There were reports of prostitution and drug and alcohol abuse among indigenous communities. Personal freedom, including freedom of movement, had been severely curtailed.

32. There were also complaints that despite the growth in violence and human rights violations against the indigenous population, soldiers and law enforcement officials in Chiapas were going unpunished. It also seemed that a new guerrilla movement had emerged in Chiapas known as the Revolutionary People's Army (EPR), which, with other similar movements, had prompted an increase in the military presence. Such information was all the more alarming since 1997 had been intended as a year of transition in which a number of parliamentary and other elections would be held.

33. Although the eleventh report had tried to answer some of the questions raised by the Committee, particularly in sections I, II and IV, section V was not of relevance to the Committee; the Government should refer to the Committee's General Recommendation XVI concerning the application of article 9 of the Convention. The Government's interpretation of the extent to which it was implementing article 4 of the Convention still gave rise to concern. The Government was adamant that the Constitution guaranteed all the fundamental rights of all individuals without any discrimination on grounds of race, ethnic origin, political views, sex, nationality and so forth and therefore fully respected article 4 of the Convention; that view was not shared by the Committee since Mexican legislation did not provide for criminal proceedings to be brought against persons committing acts of racial or ethnic discrimination. Nor did it provide for sanctions against the dissemination of racist ideas, the incitement of racial hatred, the distribution of racist

propaganda or any of the other activities prohibited under article 4 of the Convention. Specific domestic legislation on that subject was necessary in any country, if only to prevent the emergence of acts of discrimination in any form and to show that a Government was committed to promoting tolerance and good inter-ethnic relations. It was to be hoped that the Government would heed the views of the Committee and fill the gaps in its penal legislation.

34. With regard to implementation of article 5 of the Convention and the right to equal treatment before the tribunals and all other organs administering justice, several NGOs had spoken of the difficulties which indigenous persons continued to face in their dealings with the courts, including the non-availability of interpreters and a shortage of staff able to ensure that the traditional legal practices of indigenous populations were taken fully into account. There were also allegations that judges were not independent, allegations of corruption in the legal system and calls for constitutional reform to ensure the effective separation of the executive, the legislature and the judiciary. He invited comments from the delegation on that subject and requested information on the number of arrests of indigenous persons, particularly the number of such persons held in pre-trial detention, and the percentages as compared with the rest of the population.

35. Members of the Committee had also expressed concern at previous sessions about acts of violence, torture, unlawful arrest, disappearances and other similar acts carried out by the security forces, paramilitary groups, private militias and landowners against indigenous populations, peasants, the residents of shanty towns and street children. The continued existence of such human rights violations, in Chiapas and elsewhere, had been recorded in reports of United Nations bodies and NGOs.

36. The report of the Miguel Agustin Pro Juarez Centre for Human Rights of March 1997, also cited the example of two paramilitary groups made up of elements of the security forces and the army which engaged in intimidation, arbitrary arrests and violence: the "Paz y Justicia" group, which had appeared in northern Chiapas in 1995, and, linked with it, the "Los Chinchulines de San Gerónimo Bachajón" group. Reference should also be made to the "Alianza Bartolomé de los Llanos" and the "Tomás Munzer" groups. Although the activities of those groups had been reported to the authorities, the same report asserted that their members appeared to enjoy de facto impunity.

37. The 1996 report of Amnesty International stated that many members of NGOs and human rights activists had themselves been victims of violence and intimidation, in particular activists of the Miguel Agustin Pro Juarez Centre for Human Rights.

38. The right to security of the person also concerned members of the immigrant populations who, particularly when they were without documents, were prey to abuse by the authorities and to human rights violations, as noted in paragraph 60 of the eleventh report. In that connection, he would like to know the results of measures taken by the National Human Rights Commission to put an end to practices which violated the dignity of migrants entering Mexico

via its southern border, referred to in paragraph 69 of the report; these measures were necessary to offset the control, expulsion and sanctions machinery set up elsewhere to deal with migrants.

39. With regard to the right of indigenous persons and peasants to their land, which was essential not only for their subsistence but also for their identity, the Committee could only reiterate its concern about the inequitable treatment of indigenous peoples in the land distribution process and the negative impact of the amendment to article 27 of the Constitution, which, according to the above-mentioned NGOs, might well violate the inalienable nature of collective land. In particular, he would like to know how the government authorities had responded to the agrarian demands of the ZNLA. Those same NGOs continued to criticize the Government's failure to address the violent land conflicts in rural areas and the intimidation by landowners and big companies of indigenous persons and peasants. He asked the delegation of Mexico to comment. Also, what had been the practical effect of the creation of the Government Procurators' Offices responsible for agrarian questions, the agrarian courts and the national programme PROCEDE?

40. On the question, of economic and social rights, the Committee had noted in 1995 that the economic situation of the indigenous communities appeared to have worsened further since Mexico had acceded to the North American Free Trade Agreement (A/50/18, para. 383). In that connection, he asked the Government to provide the Committee with more specific information on the rates of unemployment, homelessness, crime, incarceration, drug addiction, alcoholism, prostitution, suicide, illness, mortality and illiteracy of the most underprivileged social groups, namely indigenous persons, peasants and immigrants. The next report should also contain further details on the number of indigenous persons elected to Parliament and holding employment in the civil service and figures for inter-ethnic marriages.

41. Turning to article 6 of the Convention, he requested, for inclusion in the next periodic report, complete statistics on the number of complaints, investigations, court cases, sentences and acquittals, as well as compensation paid in connection with all categories of racist offences, notably acts of violence, incitement to racial hatred, participation in racist groups and racial or ethnic discrimination in employment, housing and welfare assistance. It would also be useful to know whether human rights bodies or associations representing certain population groups could take action before the courts or lodge complaints on behalf of persons whose interests they represented. Finally, did the Government envisage making the declaration under article 14 of the Convention to allow individual communications to the Committee?

42. With regard to article 7 of the Convention, he reiterated a question asked in 1995, namely whether specific legislation was planned expressly enshrining the principle of bilingual and bicultural education and guaranteeing its implementation in schools and universities.

43. Lastly, the Committee would like information on the measures taken by the Government to publicize its periodic reports to the Committee as well as the latter's conclusions and observations, and ensure proper human rights training for law enforcement officials.

44. In view of the seriousness of the problems encountered in Mexico, it would be preferable for the next periodic report to be submitted in 1998.

45. The CHAIRMAN, speaking in his capacity as a member of the Committee, noted that reference had been made in paragraph 61 to the role of consulates and that the representative of Mexico had elaborated on that question in his introduction. It occurred to him that consulates had a wealth of information on the way nationals were treated in other States, but it had never been systematically tapped. As most States were reluctant to avail themselves of the procedure under article 11 of the Convention, it might be possible for the countries of a given region to pool information on the subject before passing it on to the international treaty-monitoring bodies.

46. Mr. ABOUL-NASR pointed out that, in its concluding observations, the Committee had merely requested an updating report, and not one that entered into the implementation of every article in detail. In his view, Mexico had complied with the Committee's request.

47. Mr. WOLFRUM said that, to his mind, a number of questions remained open. Paragraphs 73-76 seemed to suggest that the United States was violating the Convention in its treatment of Mexican migrants; if that was the case, had Mexico considered making use of article 11 of the Convention to address the issue?

48. The main problem, which had been mentioned by the Country Rapporteur and had already been touched upon a year and a half previously, concerned what appeared to be an institutionalized form of discrimination in Mexico. It was difficult to deny that the areas predominantly inhabited by indigenous persons were greatly disadvantaged: poverty rates there were very high, [illegible]literacy three times the national average and school attendance very low. Although it might be argued that that was not intentional, he reminded the representative of Mexico that under the Convention a State was required not only to combat racial discrimination but also to take affirmative action to help disadvantaged groups. Yet neither the current nor the previous report had contained any indication that that was being done effectively. The representative of Mexico had argued that such disparities had more to do with socio-economic factors than with any distinction between ethnic groups, but it was clear that social and ethnic factors overlapped.

49. It was inconceivable that no complaints had been lodged or persons prosecuted for crimes committed in connection with the Chiapas conflict; that matter must be further clarified in the next report.

50. Turning to paragraph 39, subparagraphs (a)-(d), he said that those were excellent premises; he sought further information on their impact.
In connection with paragraph 42, it was not sufficient simply to deny reports that supplies to certain ethnic groups in the conflict area had been cut off; further explanation was needed.

51. The information in the report on the amendment to article 27 of the Constitution was insufficient. He considered that amendment to be detrimental to the future development of indigenous peoples, who had different attitudes towards land use and property. It was not necessary for every indigenous

person to have a piece of land. If it was more in line with their culture to have community land, he failed to understand why that possibility had been abolished. He sought further clarification of that situation and asked the Government to reconsider the amendment, which ran counter to the interests of indigenous persons.

52. Ms. ZOU Deci said that the report made no mention of persons who had been wrongly arrested and tried. Was any provision made for the payment of compensation in such cases?

53. She sought further information in connection with the statement in paragraph 39 (a) that the deep socio-economic inequalities which affected indigenous peoples particularly badly must be acknowledged and dealt with. Could the delegation of Mexico elaborate on those inequalities?

54. She had read in an NGO report the allegation that indigenous persons in Mexico had no representation whatsoever in that country's Parliament. She inquired whether that was the case and, if not, what percentage of seats in Parliament were held by indigenous persons and whether that figure was commensurate with their numbers within the total population. Also, did any indigenous persons hold important offices in the Government? Had any measures been taken so that indigenous persons could make their voices heard?

55. The education of indigenous persons was a fundamental issue. If no importance was attached to education for indigenous persons, then their socio-economic status could not be improved. She asked for additional data on the percentage of indigenous children attending school and on illiteracy rates in the indigenous population. If nothing was done to remedy the socio-economic situation of the indigenous peoples, who were among Mexico's poorest, then a host of other problems would likewise go unresolved.

56. Mr. VALENCIA RODRIGUEZ, welcoming the legislative and administrative measures taken to promote the peace process in Chiapas, and noting the important activities undertaken in the framework of the indigenous affairs programme referred to in the report (para. 5), asked whether the records of the 6,858 indigenous persons held in various detention centres (para. 8) gave reasons for their detention. As he interpreted that paragraph, it meant that some 6,000 persons had not been released.

57. In paragraph 12, reference had been made to the use of indigenous translators at trials to assist indigenous persons who did not speak Spanish. What had been the impact of that measure?

58. He had received a report from the Mexican League for the Defence of Human Rights asserting that there was a permanent military presence not only in Chiapas but in 27 of the 31 States and that indigenous persons were harassed, detained and even tortured and murdered by members of the armed forces or the police. Peasants and indigenous persons did not enjoy freedom of movement; the militarization of large parts of the country prevented political participation and favoured certain groups allied with the official party and the landowners. The League had alleged that attacks by paramilitary gangs had been continuing and cited incidents in the community of Aguas Blancas in Palenque, which had led to 30 families being displaced, and in the

region of San Cristóbal, which had resulted in 450 persons fleeing their communities. He asked the delegation to comment on those allegations.

59. Paragraph 51 of the eleventh report stated that the Mexican migration authorities had warned foreigners to leave the State of Chiapas for their own safety. The League asserted that that was a pretext in order to keep out foreign observers, who could see the grave situation there brought about by the militarization and the activities of paramilitary gangs, and would thus be prevented from showing solidarity with vulnerable communities. He requested the delegation to comment on that allegation as well.

60. He wished to express solidarity with Mexico in its efforts to protect its citizens abroad. Although the concerns voiced in section V of the report fell directly within the ambit of article 11 of the Convention, the sovereign right of a State to regulate the flow of foreigners across its borders must be recognized. However, such a right should be exercised in a manner which did not violate the fundamental and inalienable human rights of other persons, irrespective of their nationality or race or States parties' interpretation of the Convention.

61. In conclusion, he said the report submitted by Mexico represented a positive step towards continued dialogue between the Government and the Committee.

62. Mr. van BOVEN suggested that the Committee should in future give States parties a clearer idea of what was expected from updating reports. In that regard, he found the Mexican report of great interest in many respects, but he did not find much information in response to the concluding observations reached in 1995, particularly those contained in paragraphs 387-398 of the Committee's report (A/50/18). He highlighted the issue of land rights, as addressed in paragraph 393 of the report, and the amendment to article 27 of the Mexican Constitution. Those matters had not been adequately treated in Mexico's eleventh report.

63. On the other hand, he noted that section I of the report gave facts and figures in response to paragraph 395 of the concluding observations concerning complaints of violations of the rights of indigenous peoples and the activities of the National Human Rights Commission. It would be useful to have further details on the role of that Commission in the following report.

64. Developments in the peace process in Chiapas, as presented in section III, were encouraging and positive, as was the additional information provided by the delegation. However, it appeared that there were striking differences in the perception of facts and developments on the ground. For example, the information given in paragraph 51 of the report contradicted the notion of progress, and furthermore, reports from various sources described the suspension of peace talks and extensive non-compliance with agreements, including ILO Convention No. 169. Also of particular concern was the existence of paramilitary units, allegedly operating with the cooperation of the authorities. He invited the delegation to comment further on the situation in Chiapas.

65. He appreciated the Government's concern to protect its citizens migrating to the north, and acknowledged that Mexico had played a prominent role in the drafting of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. He took the opportunity to express the Committee's concern at the fact that few countries had ratified that Convention. In tackling the problems encountered by Mexicans migrating northwards, he suggested the possibility of referring to the situation when the State party in question appeared before the Committee, as one course of action. In addition, there was the procedure laid down in article 11 of the Convention; a third possibility would be for the Committee to bring the situation to the attention of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

66. In connection with paragraph 15, he said that, as a matter of justice, the policy of promoting the autonomy of indigenous peoples should always be pursued. He expressed the hope that such a policy would prevail in Mexico.

67. Mr. FERRERO COSTA commended the timely reporting of the Mexican Government, but pointed out that not all the relevant points had been covered in the eleventh report. He therefore hoped that Mexico's next periodic report would resolve the outstanding issues.

68. He described the situation of the indigenous peoples as the main problem facing Mexico. The Committee was particularly concerned at the problem of the marginalization of indigenous groups vis-à-vis the rest of the population.

69. The situation in Chiapas had had an impact beyond the borders of Mexico and had led the Mexican Government, in recent years, to adopt a series of policies and measures for the promotion of human rights. What was lacking was the practical execution of programmes which would benefit indigenous peoples. The Committee was keen to know how the political resolve demonstrated through legislative measures would be implemented. He reiterated the Committee's concern at the ill-treatment of Mexican migrants.

70. Notwithstanding the explanation given in paragraphs 62 and 63 of the core document on Mexico, it was still not clear to the Committee how the Convention was incorporated into the federal and State legal systems, or whether the provisions of the Convention could be directly invoked before the courts. He asked the delegation to explain exactly how human rights treaties would be incorporated into domestic law at both the federal and State levels.

71. The implementation of article 4 was of crucial importance, and he recalled that the Committee had expressed its concern about such implementation in Mexico as early as 1991. Paragraph 3 of the report had taken up the issue but there remained a need for further information on internal discussions aimed at reforming the Federal Penal Code. He reminded the Government that all States parties had a clear and strict obligation to enact specific legislation declaring the dissemination of ideas based on racial superiority or acts of incitement to racial discrimination to be punishable offences.

72. Mr. YUTZIS said that contradictory statements appeared to have been made regarding the status of the San Andrés agreement, mentioned in paragraph 41 of the report. While the delegation had said the Government adhered to the provisions of that agreement, other sources had said the agreement had been suspended, and still others had claimed that the Government had made a counter-proposal. In his opinion, a counter-proposal would undermine the objectives of the original agreement. He therefore asked the delegation to clarify the Government's position on implementation of the agreement.

73. There had also been disturbing reports of repressive acts perpetrated by law enforcement bodies, including violence and arson, which had resulted in the displacement of a number of persons in certain regions. The annual report of the International Work Group on Indigenous Affairs (IWGA) had reported on the partial and unilateral granting of funds to cooperatives which supported the position of the Mexican Government. Bearing in mind the importance of the link between land, labour and identity, he believed such reports had serious implications. Partiality in the management of funds did not allow the development of micro-businesses, which were a crucial factor for the survival of the groups concerned. He therefore asked the delegation to comment on those reports.

The meeting rose at 6.05 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1207th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 18 March 1997, at 10 a.m.

Chairman: Mr. BANTON

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Twelfth to fourteenth periodic reports of Bulgaria (continued)

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.97-15943 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Eleventh periodic report of Mexico (CERD/C/296/Add.1; HRI/CORE/1/Add.12/Rev.1) (continued)

1. At the invitation of the Chairman, the members of the delegation of Mexico resumed their places at the Committee table.

2. Mr. GONZALEZ FELIX (Mexico) replying to a question by Mr. de Gouttes, said that, in conformity with the Committee's 1995 recommendation to the Mexican Government, the eleventh periodic report of Mexico (CERD/C/296/Add.1) was an updating report that dealt primarily with the situation of the indigenous populations, especially in Chiapas, and with the problems of migrants. The Mexican Government would take the Rapporteur's requests for information into account in preparing the next periodic report. It would also give Committee members a diskette produced by the National Indigenous Institute in collaboration with the United Nations Development Programme (UNDP), which contained updated socio-demographic statistics and information on the indigenous populations of Mexico.

3. He agreed with members of the Committee that when practices hindered implementation of articles 2 to 5 of the Convention, there was indeed ethnic, in other words, racial, discrimination. In various official documents, the Government had recognized the existence of that discrimination and was attempting to combat the underlying historical and socio-economic factors. As to the place occupied by the Convention in Mexico's internal law, in conformity with article 133 of the Constitution, the Convention, which had been approved by the Senate and published in the official gazette on 13 June 1975, was an integral part of Mexican law and was recognized as such. It could be and was invoked before the courts by the judiciary, defendants and lawyers.

4. With regard to the implementation of article 4 of the Convention, article 364 of the Penal Code imposed a prison sentence of one month to three years for any violation of the individual guarantees and rights referred to in article 1 of the Constitution (except in cases of restriction or suspension provided for by law), particularly the principle of the equality of all before the law, which prohibited any differentiation based on race, religion, opinions or beliefs. Within the framework of the reform of article 4 of the Constitution, on indigenous populations, a commission was currently studying the possibility, in conformity with the Committee's 1995 recommendation, of introducing into criminal law a provision prohibiting and expressly penalizing discriminatory acts.

5. Mr. CANSECO GOMEZ (Mexico), referring to the situation in Chiapas, said that he proposed first to indicate the historical background of the conflict, in order better to illustrate the complexity of the political crisis that had developed in 1994. Racial divisions inherited from the colonial era had always been more marked in Chiapas than in the rest of the country. Efforts undertaken since independence to minimize racial differences had always

encountered greater resistance there than elsewhere in Mexico. Following the Mexican revolution, in which the demands for land made by the indigenous populations had played an important part, President Cárdenas had implemented in the 1930s an ambitious land distribution programme which had given arable land to the indigenous peoples of Chiapas. That agrarian reform, however, had not achieved the desired result, primarily because of the increase in population and the methods of farming the communal lands, which were linked to self-consumption patterns. The more recent arrival of migrants from other Mexican States had aggravated the problem of the scarcity of land and contributed to instability, as the new arrivals had engaged in discriminatory acts towards the indigenous communities. The geographical proximity of armed revolutionary groups present in other Central American States had also had a destabilizing effect. In view of that situation, the Church, particularly since the constitutional reforms of 1992, had helped to promote the defence of the indigenous communities with ideals that were sometimes contrary to the constitutional principles on which the Government's action was based.

6. He drew attention to the convergence in Chiapas of two political currents, that were incompatible in the long term: the thirst for land, associated with the desire to raise the economic and social level of the indigenous populations, and revolutionary leftist ideals. The Government was therefore confronted by the demands of the indigenous populations, which were inevitably opposed to the landholders, and the aspirations for change represented by the Zapatista National Liberation Army (ZNLA), which went far beyond local demands. The political difficulties were aggravated by the insufficiency of the land itself to meet the needs of the indigenous populations and of the small landholders; by the need to find work for the migrants; and by the presence of Guatemalan refugee centres. He agreed with members of the Committee on the legitimacy of the rights sought by the indigenous populations. The conflict in Chiapas had enabled Mexico to rediscover its origins and history - to rediscover "deepest Mexico", which was far more than the Christian and colonial eras of its beginnings and the revolutionary and modern periods that had followed. Recognition of the specific character of the indigenous communities was explained less by racist or segregationist policies than by the successful unification of the Mexican nation, which had enabled those populations to become aware of their history and aspirations. The task faced by the Government, in resolving the indigenous question in the context of the conflict in Chiapas, was nonetheless considerable.

7. As to the status of negotiations between the Mexican Government and the ZNLA aimed at finding an agreed solution to the Chiapas conflict, he reviewed the process undertaken by the authorities to put an end to violations of the fundamental rights of the indigenous populations and restore peace to the region.

8. To that end, the Government had adopted a policy of reforming the legal and regulatory framework, negotiating solutions to specific problems, consolidating the dialogue and negotiation process, taking, at the judicial and political levels, a flexible attitude towards ZNLA members involved in legal proceedings, investigating the conduct of the Mexican Army in Chiapas, supporting the political transformation of the Zapatista Army and implementing the agreements concluded.

9. In order to execute that global policy, the Government had implemented the strategy outlined in chapter III of the eleventh periodic report of Mexico, by organizing a series of regional gatherings, following which it had concluded the San Andrés agreements with the ZNLA, beginning in February 1996 (paras. 38-41), which recognized the indigenous communities as legal entities and laid the foundations for a new compact between the State and the indigenous communities.

10. The Round Table on Democracy and Justice had enabled joint consideration with the ZNLA of the State's reform programme as well as discussion of the technical aspects of incorporation of the political agreements into the Constitution. The negotiations were currently at a stalemate because of the divergences arising from the text proposed by the Concord and Peace Commission (COCOPA). However, COCOPA and the National Mediation Commission (CONAI) were seeking proposals to relaunch the process, and the President of the Republic was personally insisting on the importance of the dialogue.

11. Within the framework of measures aimed at consolidating the negotiations, the Government had begun to implement a programme for the welfare and sustainable development of Chiapas. In 1996, more than 12 billion pesos had been invested in that State, making it the largest beneficiary of the federal budget. Several programmes had been adopted within the framework of the dialogue and cooperation between the Government and the socio-political and rural organizations of Chiapas, aimed particularly at creating regional centres for social action, feeding 48 per cent of the school population, providing supplies for conflict zones, building medical centres and paying pre-school teachers in 355 localities and primary-school teachers in 1,825 other localities.

12. Regarding agrarian issues, the Government was negotiating with 80 per cent of the organizations affiliated with the 280 peasant organizations of the Democratic State Assembly of the People of Chiapas. It had provided financial assistance to 58,000 peasants, enabling them to buy land, and had distributed 117,000 hectares of land. In total, 40 million pesos had been spent by the Ministry of State for Agrarian Reform.

13. With regard to strengthening the rule of law and public security, the Government was implementing a programme to restore legality in order to combat drug traffic, arms traffic and delinquency, as well as a programme to reform the judicial system in the State of Chiapas. It had also instituted a programme for the professionalization and equipment of the public security forces. It was placing emphasis on strengthening the social fabric in the municipalities which had been torn apart by community or religious conflicts and was committed to combating acts of violence perpetrated by the chinchulines, whose existence reflected rivalries between local interest parties or groups.

14. As to the conduct of the armed forces in Chiapas, since the start of President Zedillo's term of office the National Human Rights Commission (CNDH) had received 86 reports of violations allegedly committed by the Mexican army. However, the Commission did not have sufficient proof to make recommendations on the subject. A visit by the Inter-American Commission on Human Rights had also been unable to establish the responsibility of the armed forces. On the

other hand the army had played a vital role in restoring the rule of law and public security, in curbing the conflict and in providing assistance to displaced persons, thereby fostering a return to peaceful conditions. It had also contributed to the repatriation of some 20,000 displaced persons and to the reconstruction of public works and road infrastructure.

15. In order to encourage the political transformation of the ZNLA, the Government had taken steps to facilitate its peaceful integration into society. It had authorized it to benefit freely and safely from the assistance of numerous individuals and organizations sympathetic to it and had involved it in the work of various mechanisms of dialogue on State reform as well as in the consideration of questions concerning the indigenous populations.

16. The Government had implemented a number of agreements that had been concluded with the ZNLA on preparation of a draft constitutional reform on human rights, reform of the Organization Act of the State of Chiapas, establishment of offices of the Ministry of the Interior in the indigenous areas of Chiapas, enactment of a law on the restructuring of municipalities and districts of Chiapas and creation within the CNDH of an inspection department on indigenous affairs.

17. In reply to a question from Mr. de Gouttes, he said that since 1994 the Mexican Government had been engaged in a reform of the structure and functioning of the judiciary aimed at ensuring the independence of judges as well as a balance in the judicial powers, by setting up several independent judicial bodies which were responsible for such matters as resolving conflicts between the different institutions of the federal State.

18. The CHAIRMAN welcomed the fact that the Government had asked a public body to incorporate suggestions made by the Committee into the Federal Penal Code and thanked the delegation of Mexico warmly for its updated information on the evolving situation in Chiapas.

19. Mr. SHAHI said he hoped the Government would seriously consider enacting a law aimed at restoring the land ownership rights of the 56 indigenous communities, which would be vital for improving their material circumstances. As to the modalities for representation of indigenous persons in the State's political institutions, he firmly believed that special electoral reserves were needed to ensure their representation in Parliament. It was extremely important to take firm measures to increase their representation in the State's decision-making bodies, while nevertheless avoiding any paternalism.

20. Mr. YUTZIS said that the implementation of the reforms that had been decided upon was crucial and should be covered in the next periodic report of Mexico. Land redistribution should be handled by the federal State rather than left to the individual States and local collectivities, so as to secure a fair and equitable distribution.

21. Mr. de GOUTTES (Country Rapporteur) thanked the delegation of Mexico for its detailed replies to the questions asked by the members of the Committee and said that his assessment of the situation had not changed since the country's previous periodic report. He highlighted several positive aspects,

such as the procedure envisaged to ensure implementation of article 4 of the Convention. However, there was a gap between the promising words, policies and programmes of the Government and the actual situation, which was by no means so bright. Differences of opinion remained between Mexico and the Committee with regard to racial discrimination, implementation of article 4 of the Convention, reform of article 27 of the Constitution and the agrarian situation. In its next report the delegation should endeavour to analyse precisely all the socio-economic indicators reflecting the marginalization and non-integration of the indigenous populations. Given the rapid changes in the situation in Mexico, the next report should be submitted to the Committee earlier than originally planned.

22. Mr. CANSECO GOMEZ (Mexico) said that, with regard to the agrarian situation and protection of the lands of indigenous communities, the ability to convert lands belonging to peasant or indigenous communities into communal or community lands did not depend on the local collectivities but on the federal authorities.

23. The CHAIRMAN welcomed the constructive dialogue that had begun between Mexico and the Committee and thanked the delegation warmly for its contribution. He noted that the Committee had concluded its consideration of the eleventh periodic report of Mexico.

24. The delegation of Mexico withdrew.

Twelfth to fourteenth periodic reports of Bulgaria (CERD/C/299/Add.7; HRI/CORE/1/Add.81) (continued)

25. At the invitation of the Chairman, the members of the delegation of Bulgaria resumed their places at the Committee table.

26. Mr. SOTIROV (Bulgaria) thanked Mr. Wolfrum for his in-depth analysis of the report of Bulgaria and also thanked the other members of the Committee for the interesting questions they had raised. The delegation would reply orally to the more important questions and in writing to the other questions, in Bulgaria's next report. First of all, the delay in distribution of the Ministry of Foreign Affairs brochure on the situation of the Romas in Bulgaria was due to the fact that the document had been issued only in early March 1997. As to the core document (HRI/CORE/1/Add.81), it had been submitted in English in mid-1996, but translation into all the official languages of the United Nations had unfortunately delayed its distribution. With regard to the various laws cited in paragraph 9 of the report, the delegation would do its best to provide a detailed explanation of their contents and application in the next report. As to whether the declaration made under article 14 of the Convention had been publicized, the Parliament had enacted the Law on Withdrawal of Reservations and Adoption of Declarations as provided in International Treaties (para. 12 of the report), which had been published in the State Gazette in 1993. The text of the Convention had also been published in the State Gazette, in 1992, and, as in the case of the other human rights instruments, some 10,000 copies had been distributed.

27. His delegation was prepared to provide more information concerning the Bulgarian Turks in the next report. The Law of 5 March 1990 on Names of

Bulgarian Citizens (para. 93) enabled Bulgarians of Turkish origin who had had to change their name to resume use of their Muslim name, and all restrictions on the use of minority languages in public places had been lifted. Textbooks in Turkish were distributed free of charge. There were more than 920 mosques in Bulgaria. The Koran was published in Turkish and Bulgarian, and religious literature in those two languages was disseminated freely. Since 1991, the mosques had been teaching the Koran. There were currently four Muslim secondary schools and an ecclesiastical Islamic college.

28. With regard to the census, the differences between the data provided in the periodic report and those in the core document concerned only the number of ethnic groups listed. Insofar as the census had been based on the principle of the freely expressed self-identification of individuals, the list of ethnic groups surveyed was in fact longer than the one in the report: in addition to the ethnic groups mentioned, 879 persons had identified themselves as German, 1,578 as British, 1,864 as Ukrainian, 3,019 as Macedonian, 71 as Croatian, 56 as French, and so forth. The cancellation of the census results for the village of Satovcha and the city of Yakoruda had been decided upon by the Parliament after it had been found that the mayors of those municipalities had pressured people to identify themselves with a particular ethnic group. The two mayors had been tried, found guilty and sentenced.

29. With regard to the Roma, and in particular the education of their children, he hoped that the Ministry of Foreign Affairs brochure would dispel some of the Committee's concerns. The information provided in paragraphs 104 to 106 of the report was intended simply to give an account of the situation in the country; in October 1996, the Social Development Fund of the Council of Europe had allocated $1.4 million to the State authorities to build housing for 80 Roma families.

30. Paragraph 33 of the core dealt not with existing provisions to ensure the protection of human rights, but with the possibility of creating the post of ombudsman or an independent human rights commission, an issue which was currently being discussed in Parliament. With the assistance of the Council of Europe, a workshop had been held in Sofia in December 1996 to study non-judicial means for protecting human rights. As to the Standing Commission on Human Rights of the National Assembly, which was active within the strict framework of the competencies of the legislative power, it had had 600 cases before it in 1996.

31. Replying to the concern expressed by some members of the Committee regarding the prohibition imposed by article 11 (4) of the Constitution on the creation of political parties on an ethnic basis, he said that in the past such parties had had separatist tendencies; the ethnic tensions of 1991 had had an impact on the drafting of the Constitution. The application of the article did not pose any practical problems. The current situation in the Balkans also called for prudence in that regard. Asked for its opinion on the article, the Constitutional Court had declared that it should not be interpreted as limiting the right to political expression of persons belonging to different ethnic, religious or linguistic communities. The question was one of protecting constitutional order and State authority.

32. On the subject of Bulgarian Muslims, or Pomaks - a Bulgarian word meaning "infidels", used by Bulgarian Christians to describe fellow Christians who had converted to Islam in the sixteenth, seventeenth and eighteenth centuries - it was because of the pejorative connotation of the term that most Bulgarian Muslims did not wish to be identified as Pomaks; the Communist regime had imposed a policy of forced assimilation on them, but they had been able to revert to their Arabic names after the fall of Communism, an option which older persons in particular had chosen. According to experts, there were some 200,000 Pomaks in Bulgaria. In the 1992 census, 70,000 persons had identified themselves as Bulgarians of the Islamic faith, and 35,000 as orthodox Bulgarians: both groups had been listed as Bulgarians. Approximately 60,000 other persons had identified themselves as Bulgarian Muslims, Bulgarian Mohammedans, Pomaks and the like. About 50,000 Pomaks who were not of Turkish origin had identified themselves as Turks, frequently in the hope that they could thereby reach Turkey to escape the current economic difficulties. Unlike the Bulgarian Turks, the Pomaks did not have their own political organizations. Only three small groups composed solely of Pomaks had been formed. Recently, hundreds of Pomaks had reconverted to Christianity under the influence of an Evangelical movement headed by Father Boyan Sariev.

33. Mr. RAIKOV (Bulgaria) said that he wished to provide information on the question of the Macedonian minority, which should be considered in a historical context. One of the four regions of Bulgaria was called Macedonia, and the term "Macedonian", commonly used to designate inhabitants of that region, had no ethnic meaning. The creation of a separate Macedonian nation was the idea of the Communist International; it dated back to 1934 and had been revived after the war, when Tito and the Bulgarian Communist leaders had decided to create a federation of the Balkans. A campaign had then been launched to impose a Macedonian ethnicity on the inhabitants of the Bulgarian region of Macedonia. A Macedonian language and alphabet had even been created, by decree of 2 August 1945. In 1963 the Communist Party had officially recognized the failure of that campaign and, for the 1965 census, had restored a fairly free process of ethnic self-identification.

34. Bulgaria had been the first country to recognize the Republic of Macedonia. However, Bulgarian public opinion, official institutions and political parties were openly hostile to the idea that a so-called ethnic Macedonian group could exist in Bulgaria. The 1992 census had enabled citizens to express their ethnic origin freely, but half the Roma community had declared itself Bulgarian or of Turkish origin and a third of the Muslim Bulgarians had said they were of Turkish origin. Some 3,019 Bulgarians had identified themselves as of Macedonian origin and 7,784 citizens had declared a Macedonian regional identity, while at the same time indicating that they considered themselves Bulgarians and that Bulgarian was their mother tongue.

35. The majority of the 3,019 Bulgarians who considered themselves of Macedonian origin lived in the region of the Pirin mountain range of Macedonia, in south-western Bulgaria. They suffered no discrimination in the exercise of their fundamental rights and could stand for election. In conformity with article 54 of the Constitution, which guaranteed the cultural rights of every citizen, several publications in western Bulgaria were advocating the idea of a separate Macedonian ethnic group in both the Republic of Macedonia and Bulgaria.

36. In conformity with articles 43 and 44 of the Constitution, which proclaimed freedom of assembly and of association, two cultural organizations registered in 1995 were upholding pro-Macedonian views. Some newspapers from the Republic of Macedonia were available in Bulgaria. Certain historical figures and events commemorated by the Bulgarian Macedonians were officially celebrated, as they were part of the collective memory of the entire nation. The native language of that group was taught at school.

37. Nevertheless, in western Bulgaria, the Omo Ilinden group was demanding a ban on all major parties in south-western Bulgaria, calling for an international military invasion of Bulgaria and withdrawal of the Bulgarian armed forces from the south-west, inciting ethnic hatred and making statements against the sovereignty and territorial integrity of Bulgaria. Recently, one of its leaders had been arrested in Petrich while attempting to stage a terrorist act.

38. On several occasions, the group had asked for official recognition. Its aims were the creation of a united independent Macedonian State, and it was clear from some of its documents that it was also threatening the sovereignty and territorial integrity of Greece and Albania.

39. The Bulgarian authorities had therefore on several occasions prohibited Omo Ilinden from organizing rallies but had authorized individuals who said they were members of that group to do so. Even so, the group continued to pursue its political activities and was frequently reported on in the press. The European Court of Human Rights had recently rejected as inadmissible a complaint lodged by the group.

40. Mr. SOTIROV (Bulgaria) said his Government would provide more information on the Russian, Greek, Armenian, Romanian and Jewish communities in its next report.

41. Additional information had been sent in September 1996 to Amnesty International on the implementation of the Penal Code. It was true that more remained to be done to improve the attitude of those in charge of enforcing the law vis-à-vis certain communities, and isolated cases of brutality were to be deplored. They were essentially due to the sometimes inadequate enforcement of certain laws and not to a deliberate policy of impunity. The size of the police force and its technical and financial resources, were insufficient; the forces of law and order were not sufficiently trained. Further legislation would be needed to govern police activities.

42. With reference to the implementation of article 5 of the Convention, Bulgaria had submitted its report to the International Labour Organization (ILO) on the application of Convention No. 111 concerning discrimination in employment and occupation. The functions of the presidential adviser on ethnic and religious issues were determined by the President himself.

43. There was no organized xenophobia in Bulgaria. However, sporadic manifestations occurred and the authorities were doing everything possible to prevent them and to punish those responsible.

44. In relation to the Bulgarian Turkish community, it was regrettable that there were no television broadcasts in the Turkish language in Bulgaria. The Turkish population watched Turkish television broadcasts, and perhaps, as a result, felt somewhat apart from Bulgarian social and cultural life.

45. He agreed that some of the points in paragraphs 23 and 24 overlapped. The absence of an independent human rights commission and an ombudsman for human rights questions somewhat hampered protection of human rights in Bulgaria. Nonetheless, the justice system generally enabled those rights to be realized.

46. Under article 97 of the Code of Criminal Procedure, anyone could complain of a violation of his rights and demand compensation. Furthermore, the Law on State Liability for Harm Inflicted on Citizens was enforced in full. In November 1989, proceedings had been initiated to rehabilitate and compensate Bulgarian citizens whose rights had been violated under the totalitarian regime. Under the 1991 Law on Amnesty and the Restitution of Sequestered Properties, a number of acts had been amnestied and were no longer subject to criminal proceedings, as they had been since 1945.

47. The 1991 Law on Civil and Political Vindication of Repressed (Persecuted) Persons, as applied to the period between 1944 and 1989, meant that those concerned could be compensated. Like Mr. Banton, he believed that representatives of ethnic minorities should play a role in combating crime.

48. The 1991 Constitution proclaimed the primacy of international law over domestic law. Article 5, paragraph 4, of the Constitution defined international law as international treaties that had been ratified, promulgated and made effective by the Republic of Bulgaria. Thus, the norms of customary international law and the decisions of international organizations or courts did not take precedence over domestic law.

49. Religious groups could be officially recognized. After 1989, many religious movements and sects had appeared in Bulgaria. However, some of them were involved in activities directed against the rights and freedoms of the population. Legislation called for religious organizations to be registered in conformity with the provisions of existing international instruments. Some organizations, however, had been registered under the Family and Persons Act, which regulated the activities of non-profit organizations. In order to prevent abuse of the law, the Parliament had amended it in February 1994. The new article, 133 (a), stipulated that the registration of religious associations was subject to approval by the Council of Ministers. Following that reform, more than 30 associations had been registered. The organizations whose requests for registration had been turned down were in fact banned in many other countries. The organizations concerned were entitled to challenge the legality of the registration procedure before the Supreme Court.

50. Religious beliefs posed no problem for integration in Bulgaria.

51. Mr. ABOUL-NASR, referring to the Pomaks, said that the forced conversion of Christians to Islam in the sixteenth, seventeenth and eighteenth centuries had been the consequence of Ottoman colonialism and not of Koranic law. The Koran obliged Muslims to pay a tax, the zakat. The Government should do

everything in its power to prevent the people from being prejudiced against the Pomaks. It was time to look to the future and resist making religion a source of trouble or supporting the extremists' arguments.

52. Mr. WOLFRUM said the answers provided by the Bulgarian delegation should be incorporated into the next periodic report. It was clear that the economic and social situation of the Roma was worse than that of other Bulgarian communities and that the Government should do something to improve the situation. Those in charge of enforcing the law should be made aware of the needs of minority groups.

53. He requested additional information on the restitution of property confiscated under the former regime from members of certain minorities. Had those persons recovered their property, or not? Regarding the Bulgarian Turks, the Government should encourage Bulgarian television broadcasts in Turkish. He welcomed the fruitful dialogue that the Bulgarian delegation had held with the Committee and the substantial information it had provided.

54. Mr. SOTIROV (Bulgaria) agreed with Mr. Aboul-Nasr that religion should not be the source of conflicts or passion. The next report would contain replies to the other questions raised by the Committee.

55. The CHAIRMAN said that the Committee had concluded its consideration of the twelfth to fourteenth periodic reports of Bulgaria.

56. The delegation of Bulgaria withdrew.

The meeting rose at 1.10 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1208th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 18 March 1997, at 3 p.m.

Chairman: Mr. BANTON

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CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Fourteenth periodic report of Panama .

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GE.97-15951 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Fourteenth periodic report of Panama (CERD/C/299/Add.1)

1. At the invitation of the Chairman, Mr. Ducreux, Mr. Bonagas, Ms. Lu and Ms. Manzur (Panama) took seats at the Committee table.

2. Mr. DUCREUX (Panama), introducing his country's report (CERD/C/299/Add.1), expressed gratitude for the Committee's understanding of the circumstances which had prevented the timely submission of the report. His Government attached special importance to renewed contact with the Committee and had therefore appointed a delegation composed of representatives from the main government agencies responsible for action to combat discrimination and promote racial equality in Panama.

3. Very early in its history, Panama's peculiar geographical situation as an isthmus had rendered it an ideal meeting-place of cultures where tolerance and interaction between peoples had built a society based on unity and diversity. Paradoxically, the most noticeable manifestations of racial discrimination had been directed by others against Panamanians on Panamanian soil, but fortunately that situation had been almost completely resolved.

4. He described the sociological and political structure of the country, highlighting the functions of the government departments dealing with social issues such as health, housing, education, marginalization, discrimination and equality of opportunity. Much success had been achieved at the local level through the establishment of communal "juntas" for community development. With the active participation of the members of the communities, those bodies were responsible for promoting the political, social and economic changes necessary to ensure harmony within and between communities.

5. Measures taken at the community level for the achievement of social equality and justice were supported by the work of the public authorities and the police. Special courses were organized on the protection and observance of human rights, with financial and technical assistance from the United Nations Centre for Human Rights.

6. The National Directorate of Prisons had also benefited from the attention paid to the protection for human rights, and had substantially changed its thinking on the management and operation of detention centres. That new policy was supplemented by NGO support and collaborative agreements with bodies such as the National Vocational Training Institute (INAFORP), which arranged courses aimed at the productive reintegration of prisoners, including women, into the labour market after their release.

7. In addition to the activities undertaken by the Ministry of Labour and Social Welfare and the National Office for Refugee Matters (ONPAR) for the benefit of migrants, his Government was currently discussing an Executive Decree to reinforce the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto. A draft protocol on migration, designed to

simplify the process of naturalization of migrants, and a bill on migration policy, developed in consultation with the International Organization for Migration (IOM), were being studied by government authorities.

8. His Government had pursued several specific legislative measures for the advancement of women and their equal participation in the economic, political and social development.

9. There had been important achievements in the area of indigenous affairs. The Ministry of the Interior and Justice, through the National Directorate for Indigenous Policy and the National Directorate of Local Governments, had coordinated efforts at the national level to resolve the problems faced by the indigenous population. Much interest had been focused on territorial delimitation, the constitutional rights and obligations of indigenous peoples, legislation for the establishment of local governments and, above all, the preservation of ethnic identity. In that context, the National Directorate for Indigenous Policy pursued a programme of economic and social development of all ethnic communities, fully respecting and guaranteeing their political and cultural values.

10. The indigenous population of Panama was composed of approximately 195,000 persons in three main ethnic groups, with settlements in five provinces and one district (comarca). The indigenous population accounted for 8.3 per cent of the total population. National legislation had now created four comarcas, covering 18 per cent of the country's land area. That legislation guaranteed the rights of collective ownership of indigenous territories, and continuity and respect for indigenous forms of government and production.

11. Regional Coordination Councils had been set up to prepare integrated development plans and the Government recognized the General Congress of the Comarcas as the supreme body for ethnic and cultural expression and decision-making for indigenous people. Nevertheless, the decisions of the Congress were required to conform to constitutional principles and the laws in force in the Republic. The Government also recognized the traditional authorities of the comarcas, including the hierarchy of chiefs and community spokesmen who were elected by the communities themselves. At the same time, the Government guaranteed budget allocations for administration, investment and the overall development of the comarcas and their resources.

12. In the development of natural resources, the Panamanian Government had made legislative provision for environmental-impact studies prior to the exploitation of resources within the comarcas. Those studies must be submitted to the indigenous authorities for comment. The Government had also considered the establishment, with the participation of indigenous representatives, of a Commission for the Development of Tourism.

13. Turning to the subject of labour, he said the Government had adopted a number of legislative measures to modernize labour relations. Faithful compliance with the existing labour laws had created a climate of social peace in Panama.

14. In recognition of the role of education in promoting respect for, and protection of, human rights, special emphasis had been placed on the teaching of human rights and the enjoyment of fundamental freedoms. The Commission to Promote Human Rights Teaching and Learning, established with the assistance of NGOs, the Inter-American Centre for Human Rights, UNESCO and UNICEF, had boosted the Government's efforts in that area. The Government had also recognized that social marginalization could result from indirect discriminatory practices and had funded a number of fellowships and grants through the Human Resources Training and Management Institute.

15. In conclusion, he drew attention to the most recent expression of the commitment of the Panamanian Government to the protection and enjoyment of human rights, namely the enactment in December 1996 of a law by the Legislative Assembly creating the Office of Ombudsman.

16. Mr. FERRERO COSTA (Country Rapporteur) expressed apprection for the Panamanian Government's resolve to engage in a high-level dialogue with the Committee. He expressed satisfaction at the establishment of the Office of Ombudsman for human rights issues and the important measures taken with respect to indigenous populations and the rights of women. Although the report had complied with the guidelines established by the Committee, there was still an important need for specific information on Panama's compliance with certain articles of the Convention. He expressed the hope that the unanswered questions raised by the Committee on earlier occasions would be addressed at the present session or in a subsequent report.

17. He wished to reiterate a request made by the Committee for accurate statistics on the ethnic composition of the Panamanian population. Information submitted to the Committee from various sources was inconsistent with the Government's claim of a total indigenous population of 195,000, indicating that the figure was substantially higher. The Committee was also interested in receiving accurate information on the indigenous population's ethnic composition. He drew attention to the important constitutional provisions intended to preserve the identity of indigenous people, notably articles 19, 84 and 86.

18. Referring to the administrative organization of indigenous peoples, he asked for confirmation of the number of indigenous comarcas and asked for an explanation of the distinction between comarcas and provinces. He was curious to know whether the rights of indigenous people living in comarcas differed from those of indigenous people in provinces. Referring to the oral presentation and the "indigenous congress", he asked for a detailed explanation of the legal scope of decisions adopted by that congress. He also asked whether the decisions had effective value, in view of the fact that they must conform with constitutional principles. To what extent were indigenous people living in the comarcas able to approve legislation or decisions formulated in the indigenous congress?

19. Information would also be welcome on relations between chiefs (caciques) in the indigenous comarcas and national leaders. The report contained detailed information in paragraphs 2-37 on institutions belonging to the executive branch of government and development plans and projects. However,

it would be interesting to know more about how the municipalities functioned in the comarcas and what the Directorate-General for Community Development did specifically to help the comarcas.

20. He asked for details on current indigenous policy in the National Development Plan and whether the National Directorate for Indigenous Policy was responsible for studying, maintaining and promoting the culture of indigenous populations. The Committee would welcome information on how much of the national budget and international funding was allocated to promoting and developing programmes for indigenous populations. It would also like to know which State body was responsible for coordinating the activities of the host of institutions mentioned in the report and the oral introduction.

21. There were major problems facing the indigenous communities in Panama which had been glossed over in the report and the introduction, not least the demarcation of boundaries of comarcas such as Cuna Yala, whose population had never recognized the boundaries drawn up between it and Colón province. There were reports that the Government had set up a tourist centre in Cuna Yala which had drawn protests from the local community. He invited the delegation to confirm or refute the reports and provide information on measures taken by the Government to settle boundary disputes and on negotiations on the demarcation of the indigenous comarca of Ngobé-Buglé.

22. A further problem was the granting of mining concessions to private companies to operate in indigenous territories, to the displeasure of the local communities thus affected. The General Congress of Cunas had gone as far as to state publicly that it repudiated the Government's anti-indigenous policy. Information on the situation should be provided.

23. He wondered whether there were any new developments in relation to a government decision on whether or not to sign the ILO Convention concerning Indigenous and Tribal Peoples (No. 169).

24. The Committee would welcome statistical information on the ethnic composition of the population of Panama, given its multiracial character, and how and if members of minority ethnic groups, such as Asians and Chinese, were discriminated against. Further information was also needed on the composition of the black population, on where its members lived in Panama and on levels of poverty among them.

25. Turning to the question of refugees and immigrants, he requested that the Committee should be provided with full statistical details of the number of refugees and immigrants in Panama, information on measures taken to protect them, their status, how many people were refused refugee status and why. It was surprising that only 752 refugees had requested protection, as mentioned in paragraph 26 of the report, given the situation in Central America in the 1980s.

26. He invited the delegation to comment on Panama's implementation of article 3 of the Convention since, apparently, there was wire-fencing marking the boundaries of the indigenous comarca of Cuna Yala, which could be interpreted as an attempt to segregate the community.

27. With regard to article 4 of the Convention, the Panamanian Constitution contained important provisions prohibiting racist associations and political parties. However, the Penal Code did not explicitly sanction acts and organizations that incited racial discrimination but merely provided for penalties for persons who committed human rights violations in breach of international instruments to which Panama was a party (10 to 15 years' imprisonment) or persons who impeded compliance with such instruments (1 to 3 years' imprisonment). He asked whether any cases had come to court on the basis of those provisions and why there was such a difference in the sentences for the two offences. Panama should consider enacting specific legislation fully to comply with article 4 of the Convention.

28. Turning to article 5 of the Convention, he said that although there was a great deal of information on areas relating to paragraph (e) (i) and (ii), there were no details on the enjoyment of other economic, social, cultural and political rights. Additional information on the situation of indigenous communities and the black and Asian population, in terms of access to decent housing, drinking water, health, education and the other rights mentioned in article 5, should be supplied. Many of the questions raised by the Committee during consideration of previous reports relating to the situation in the Canal Zone seemed to have been answered, although the information provided indicated that there were still problems of discrimination in terms of employment and occupation in the Zone and that the Government remained unable to implement all the provisions of the Convention there. What exactly was the position of Panamanian workers in the Canal Zone and had the Government taken any measures to deal with the problems that still seemed to exist?

29. Information on measures to promote bilingual education among the indigenous population should be provided, as should clarification of whether there was any conflict in the education system between the use of Spanish in schools, as the official language of the State, and the provision of bilingual education.

30. The report made no mention of implementation of article 6 of the Convention, an omission which should be rectified in the next periodic report.

31. The establishment of the office of ombudsman was a welcome development. However, more details were needed on the competence and role he or she would have.

32. It seemed that the administrative human rights proceedings mentioned in the core document (HRI/CORE/1/Add.14/Rev.1) related only to civil and political rights, which raised the question how alleged violations of economic, social and cultural rights were dealt with and how the system operated in practice across the country. He asked whether all citizens of Panama were equally able to seek legal redress for human rights violations, including in the comarcas, and how the judiciary was organized in those areas. Furthermore, was Spanish the only language used in the courts? If so, was interpretation provided free of charge? He also asked for details of administrative and judicial remedies for workers in the Canal Zone.

33. He welcomed the fact that human rights education was compulsory in schools in Panama and asked how the community project entitled "Tolerance and

education for democracy, human rights, peace and development" was progressing. He wondered if the Convention and other international human rights instruments had been translated into any indigenous languages, and if there were human rights training programmes for law enforcement officials in Panama. Lastly, he asked if the Government of Panama had given any further consideration to making the declaration under article 14 of the Convention.

34. Mr. VALENCIA RODRIGUEZ welcomed the policy followed by Panama to improve the social and economic situation of the indigenous population, immigrants and refugees. Noting that paragraphs 14 and 36 referred to those provisions of the Constitution that were relevant to the Convention, he said that more specific information would nevertheless be useful to explain the relations between those provisions and the Convention.

35. He stressed the importance of the National Office for Refugee Matters (para. 24). Concerning paragraph 28, it would be useful to have further information on the protection given to refugees so as to determine to what extent the Convention was applied to them. Also, how many refugees were currently in Panama, and what countries did they come from?

36. Turning to paragraph 33, he noted with interest the commitments undertaken by Colombian and Panamanian institutions involved with indigenous questions, and in particular those described in subparagraphs (b)-(d). How had those commitments been put into practice?

37. In connection with paragraph 35, he sought further clarification of the activities of the Intergovernmental Commission for the Development of the Ngobé-Buglé Region and the creation of the Emberá-Wounaan comarca. What was the indigenous population of the comarcas mentioned? And what measures had been taken to promote their socio-economic advancement?

38. He requested additional information on how the provisions of the Constitution, the Penal Code and the decision referred to in paragraph 45 met the obligations stemming from article 4 of the Convention and how they were applied in practice.

39. With regard to relations between Panama and the United States, discussed in paragraph 78, he wondered whether, insofar as the United States had acceded to the Convention, Panama might consider making use of the procedure under article 11 in connection with cases of discrimination in the labour sphere against Panamanian employees in the Canal Zone.

40. Mr. de GOUTTES, beginning with a general comment, said that much of the report of Panama contained information which concerned not so much the Convention, but rather the International Covenant on Political and Civil Rights.

41. He had only a few specific questions. Regarding paragraph 46 of the fourteenth report, which stated that no charges or complaints had been lodged with the Ministry of the Interior and Justice concerning any kind of racial discrimination, he asked whether that Ministry was competent to receive such complaints in addition to the judiciary. He would also like to know why there had been no complaints. Was it due to inadequate legislation punishing racial

discrimination, ignorance of the law on the part of victims, mistrust of the police, or inertia in the police and the courts with regard to that type of offence? He sought further clarification from the delegation of Panama.

42. The absence of any complaint was all the more surprising, given that certain NGOs maintained that indigenous peoples were still the victims of human rights violations, particularly within the framework of conflicts with landowners and mining companies. For example, according to the 1996 report of Amnesty International, magistrates in the province of Chiriquí had reportedly punished Guayamí men, women and children involved in land claims by binding them to stocks for periods of up to five days; higher authorities in Chiriquí had apparently been aware of the practice but had done nothing to stop it. It was also alleged that nine Guayamís, including a 12-year-old boy and a pregnant woman, had been briefly arrested without warrant during a demonstration against incursions by mining companies. He asked the Panamanian delegation to comment on those reports.

43. Mr. BONAGAS (Panama) said that he would attempt to give an immediate reply to some of the questions asked by members of the Committee.

44. With regard to the question on the comarcas, he acknowledged that there might be some confusion in the report. In 1925, Panama had created the first indigenous comarca, the comarca of Cuna Yala, which effectively had the same powers as a province. It was probably the only case in Latin America of territorial segregation for one particular ethnic group, in that case the Cunas. Later, to meet the needs of the indigenous populations elsewhere, Panama had established comarcas in other provinces: Emberá-Wounaan (1983), Magungandí (1996) and Ngobé-Buglé (January 1997), the latter created for the Guayamí ethnic group.

45. Most, but by no means all, indigenous persons lived in the comarcas. At present, 18 per cent of the national territory was set aside for indigenous groups, which made up 8.3 per cent of the total population. By way of comparison, the non-indigenous population lived on one third of the national territory.

46. In response to another question, he said that his Government had no policy of fencing off those territories: even if it had, it would be financially impossible, given their size. There were, however, a few cases of comarcas in which certain areas were fenced off for purposes of livestock farming.

47. Some of the indigenous populations were nomadic, and that gave rise to a number of minor territorial disputes over demarcation lines, because the indigenous population had moved beyond the areas set aside for them. But in most cases, the indigenous population lived in more remote areas, along the border with Colombia, whereas the non-indigenous population was concentrated in the central zone, around the Canal and the city of Colón. The demarcation line decided upon a couple of months previously in the comarca of Ngobé-Buglé would make it possible to resolve most of the remaining minor territorial disputes. His Government would continue to give those questions the greatest attention in the future.

48. It was true that there was no national entity to oversee such efforts. The body which most often dealt with such questions was the Ministry of the Interior and Justice. His Government had recognized the need to overcome that deficiency. Many initiatives had been taken on behalf of the indigenous population, but they had not had sufficient impact because they were not well-coordinated, particularly in the current difficult economic context.

49. In connection with the request for information on police training in the protection of human rights, he was pleased to report that two such projects were currently under way in Panama. Firstly, in conjunction with the Centre for Human Rights, Panama had received US$ 103,000 to fund the sending of experts to train 100 police monitors, who in turn would teach some 5,000 police officers. Secondly, Spain had funded a project designed to reach a target group of a similar size. It was to be hoped that in two years, 85 per cent of police officers in Panama would have received such training.

50. The Panamanian Academy for Police Training currently offered a course on the protection of human rights for police officers.

51. Reference had been made to the part of the report concerning labour discrimination in the former Canal Zone. It should be pointed out that there had been growing participation by Panamanian nationals in the running of the Canal, whose entire administration and operations would be transferred to Panama on 31 December 1999. Thus, the situation had changed considerably. In December 1996, 92.1 per cent of the labour force operating the Canal had been Panamanians and only 7.3 per cent United States nationals, the remaining 0.6 per cent being nationals of other countries. Hence, for all intents and purposes, the problem of labour discrimination had been overcome.

52. With regard to the amendments to Act No. 96/70, he said that the Act was still in force but another law had been passed which had facilitated the work of the bi-national board directing the Canal and had had a positive impact on preparations for the transfer of the Canal's activities to the Panamanian Government.

53. Ms. LU (Panama), replying to questions on refugees, said that in 1977, Panama had approved the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto. The body established to deal with such questions, the National Office for Refugee Matters, a branch of the Ministry of the Interior and Justice, worked closely with the United Nations High Commissioner for Refugees (UNHCR).

54. Persons who, upon their arrival in Panama, had a well-founded fear of persecution in their countries of origin were interviewed by a legal adviser and a social worker to determine why they were seeking asylum in Panama. If they met the necessary conditions, their request was approved and they were provided with documents valid for six months. The National Commission, which met regularly to examine and take decisions on requests for refugee status, was made up of representatives of the Ministry of the Interior and Justice, the Ministry of Foreign Affairs, the Ministry of Labour, the Red Cross, the National Directorate for Migration and Naturalization, the National Police and UNHCR. In the event of rejection, a person could still request his or her case to be reconsidered. Even after a second rejection, it was still possible

to appeal directly to the Legal Adviser's Office within the Ministry of the Interior and Justice; the Minister's decision was final. The programme of assistance to refugees was currently financed by UNHCR under a bilateral agreement with Panama.

55. In the past, refugees in Panama had come primarily from Central America for reasons associated with military conflict, but as the region had embarked upon a process of democratization, there had been a substantial drop in their numbers, many persons having returned home or married Panamanian nationals. Any person granted refugee status was entitled to a work permit. All told, there were currently some 800 refugees in Panama, mainly from Nigeria and Liberia.

56. Mr. BONAGAS (Panama), replying to a question on other minorities in Panama, said that it was difficult to give a breakdown on Asians and Blacks, because Panamanian statistics did not differentiate on that basis. But he could assure the Committee that persons from those groups were well integrated in Panama.

57. In reply to a question on political representation, he pointed out that Panama had 40 electoral districts, five of which were situated in the territories of the indigenous population; pursuant to a recent decision, another two electoral districts would be assigned to that population. The number of seats held by indigenous persons in Parliament was commensurate with the size of the indigenous population. He had no information on the share of the national budget earmarked for indigenous activities; to his knowledge, there was no such breakdown.

58. Mr. DUCREUX (Panama) said that, with adoption of the Act establishing the comarca of Ngobé-Buglé, the Intergovernmental Commission for the Development of the Ngobé-Buglé Region, which had drafted the Act, was responsible for managing and coordinating policies and action to protect the indigenous population. The establishment of the Commission provided a good opportunity for gaining a deeper understanding of indigenous problems, and had been an important step towards implementing the provisions of ILO Convention No. 107. Very few States had ratified ILO Convention No. 169 and it was noteworthy that Panama was moving in that direction.

59. On the subject of immigrants to Panama, a decree had been passed following an agreement between Colombia and Panama to the effect that all Colombians residing in Panama, amounting to some 20,000 in the border area, automatically had the right to settle freely in Panama. Efforts were being made through the National Directorate for Migration and Normalization to legalize the situation of immigrants, and to provide them with work permits.

60. In response to questions about the status of workers in the Canal Zone, he said it should be borne in mind that all workers in the Canal Zone, whether Panamanians or not, came under the regime established by the United States Government. The Panamanian Government did not therefore have the legal authority to intervene in resolving the problems of Panamanian workers in the Zone until authority was transferred to Panama on 31 December 1999. On the subject of wage differentials between United States and Panamanian citizens working in the Canal Zone, the disparity was largely due to the fact that

United States citizens received an additional bonus amounting to some 20 per cent of their wages when they worked in a foreign country.

61. Mr. BONAGAS (Panama), referring to the question of bilingual education for indigenous populations, said that as a result of major changes in the education system in the 1970s and early 1980s, including education in indigenous mother tongues, a pilot project had been developed for education in the three main indigenous languages in cooperation with UNESCO, covering curriculum content, teacher training and the preparation of textbooks and reading materials. Lack of resources had, however, largely prevented extension of the project, although the Cuna community now benefited from mother-tongue education at the primary level, with secondary education in Spanish.

62. The black population could be divided into two groups, the first consisting of a very small number of black persons who had been brought in as slaves during the Spanish colonial period and were now totally assimilated. The second, much larger group had come to Panama at the time of the building of the Canal and its members were mostly of Caribbean origin. Although they had been basically English-speaking, they had learned Spanish, which was now their cultural frame of reference. They were to be found in the transit zone between Panama and Colombia and much progress had been made in overcoming their marginalization. They were fully integrated and there was very little evidence of discrimination against them. They held posts in both the public and private sectors, at all levels. In the poorer areas, he was not aware of any particular discrimination against the black population. Persons of Asian origin were also well integrated.

63. He was willing to provide the Committee with the very voluminous document setting out the provisions of the Act establishing the comarca of Ngobé-Buglé. Although it had been designed specifically for the comarca in question, the Government had pledged to apply those provisions to all other comarcas that were subject to less favourable provisions. The text marked a radical change, in keeping with the Government's commitment to improving the lot of indigenous people, and covered a wide range of issues, from rights and regulations, the environment and exploitation of natural resources to new institutional structures and the division of responsibility between various authorities. He assured the Committee that its conclusions would be carefully studied and efforts would be made to incorporate the provisions of the Convention into domestic legislation, an area in which much clearly remained to be done.

64. Ms. LU (Panama), responding to questions about how the comarcas were administered, said that the national authorities worked in close cooperation with the traditional authorities in matters of concern to them. No local development project would be undertaken, for instance, without prior consultation with the spokesmen for the communities concerned, such as the General Cacique of the Ngobé-Buglé comarca. Many projects were managed by the indigenous peoples themselves, an example being a large-scale rural project financed and partly supervised by the International Fund for Agricultural Development (IFAD) in Ngobé-Buglé.

65. Mr. BONAGAS (Panama), referring to the relationship and division of authority between the caciques, representatives in the National Assembly of Representatives of Administrative Districts and those of the indigenous congresses, said that in practice, the caciques were the spokesmen for the needs and interests of the comarca in the Assembly and other institutions and it was they who effectively decided on the application of the law in the comarcas. Any decision or economic activity must be approved by the indigenous Congresses, and the Government took no decisions overriding those approved by the communities themselves.

66. On the subject of mining operations, reference had been made to a problem involving a Canadian mining company in the Cuna Yala comarca. No contracts for mining in that comarca had been granted and to his knowledge there was no such operation. Negotiations were under way, however, for a mining contract in the Ngobé-Buglé comarca. The law entitled the indigenous communities to take part in environmental impact studies connected with the exploitation of resources in the comarca, and their interests and views would be the first to be taken into account. Any proceeds from such an operation would be earmarked for the development of the comarca as a matter of priority.

67. Amnesty International's report of alleged mistreatment of a mother and child was somewhat inaccurate. There had been a case in which two or three indigenous persons had been imprisoned for blocking a major highway, but members of their families who, as was customary, had accompanied them, had waited outside the prison and had not been incarcerated with them. Although there were very few cases of violent confrontation with members of the indigenous population in Panama, it was recognized that a few such incidents had occurred. One such case had involved the burning of a vehicle in protest against a mining operation outside a comarca several years previously. In a more recent incident, an official car had been attacked but the alleged offenders had been released and the case dropped.

68. The comarcas were divided into districts and municipalities (corregimientos), each with their own local board or council (junta) responsible for planning social and community services and facilities. Prior to the introduction of the comarcas, there had been separate districts for the indigenous and non-indigenous population in areas inhabited by indigenous communities; where the indigenous community was in the majority, the mayor would be a member of that community. As a result of the new laws governing the comarcas, new, entirely indigenous districts with their corresponding institutions and authorities would be set up. Regarding responsibility for community development, the role of the local councils was crucial in determining needs, whereas the government department concerned played a role of coordination and assistance and set priorities within the broader context of development needs for the whole population; such would be the case, for example, in decisions to undertake civil engineering works or establish health centres.

69. Originally, the National Directorate for Indigenous Policy established under the Ministry of the Interior and Justice had concentrated its efforts on

specific issues relating to the indigenous population as they arose, and particularly on settling disputes, but with time, its functions had expanded to include close cooperation with the traditional authorities through their representatives in the National Assembly, supporting their work and catering for indigenous needs.

70. As a result of its origins and history and the continual intermingling of persons of different ethnic and racial origins, Panamanian society was truly integrated. No typical physical type could be discerned. The Government was aware, however, that some sectors of the population, especially the indigenous people, needed special support in order to bring their standard of living up to a level that was at least comparable with that of the rest of the population.

71. The CHAIRMAN said that the Committee would agree that Panamanian society was heterogenous in regard to its genetic composition and there was no association between genetic and social characteristics.

72. Mr. YUTZIS welcomed the resumption of the dialogue with Panama and expressed the hope that the delegation's oral responses would be incorporated and elaborated upon in writing in the next report. He hoped that the next report would also respond to several additional comments. The first concerned paragraph 34 of the fourteenth report. He would welcome more information on the outcome of the meeting referred to in that paragraph, which concerned the important question of emerging, alternative economies in the new global economic order. Secondly, with reference to paragraph 51, he particularly welcomed the inclusion in the Constitution of the statement that work was a right. Thirdly, with regard to paragraph 20 (a), (b) and (c), he requested data on the proportion of indigenous persons in the prison population, and asked what measures were being taken regarding members of indigenous groups held in detention.

73. Mr. FERRERO COSTA, welcoming the resumption and frankness of the dialogue with the State party, expressed the hope that full replies to all the questions asked would be given in the next report, due in 1998. To be able to assess fully Panama's implementation of the provisions of the Convention, precise data were needed on the ethnic breakdown of the population, the legal structure of Panama, the differences between provincial and comarca authorities and the functions of the caciques and the indigenous congresses. Two specific issues which called for investigation and clarification were the question of the land borders of indigenous territories and that of problems relating to mining operations in indigenous areas. A useful and reliable source of information lay in the publications of the international working group on indigenous affairs (IWGIA). More information was needed about groups of Asian origin and the problem of migrants and refugees. The next report should also include details of the implementation of articles 4 and 5 of the Convention through the relevant provisions of the Constitution and the Penal Code. Further information on the forthcoming appointment of an ombudsman

would also be appreciated. He looked forward to a full response in the next report, which should be prepared in accordance with the Committee's guidelines.

74. Mr. DUCREUX (Panama) assured the Committee that its comments and questions would be thoroughly studied. Panama had gone through a difficult period, but he hoped that, with its economic recovery and opening-up to world trade, it would be in a better position to implement the Convention more fully and that its next report would reflect the progress made.

75. The CHAIRMAN expressed the Committee's appreciation for the resumption of the dialogue with Panama and for its helpful written and oral submissions.

The meeting rose at 6 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1209th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 19 March 1997, at 10 a.m.

Chairman: Mr. BANTON

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GE.97-15955 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Fourth to fourteenth periodic reports of Swaziland (CERD/C/299/Add.2)

1. At the invitation of the Chairman, the members of the delegation of Swaziland took seats at the Committee table.

2. Mr. DLAMINI (Swaziland) explained that the delay in the submission of Swaziland's periodic reports had been due to changes which had occurred in his country and various other unforeseen developments.

3. Mr. MATSE (Swaziland) summarized the report submitted by his country (CERD/C/299/Add.2), which combined the fourth to fourteenth periodic reports. He drew particular attention to the provisions establishing penalties for acts of racial discrimination contained in the Race Relations Act of 1962 (para. 7), the Employment Act of 1980 (para. 11) and the Citizenship Act of 1992 (para. 12).

4. In connection with the right of association, Parliament was considering a bill to amend the Industrial Relations Act of 1980 (para. 15). In addition, a constitutional reform commission had begun to review certain enactments that were incompatible with the principles of natural law. It was hoped that the commission would also review the Race Relations Act. UNHCR had expressed a favourable opinion of the way in which Swaziland dealt with refugees.

5. Mrs. SADIQ ALI (Country Rapporteur) welcomed the resumption of the dialogue between Swaziland and the Committee, which had been suspended for 20 years or so. Referring to General Recommendation VI, in which the Committee had considered that ratification alone did not enable the control system set up by the Convention to function effectively, she emphasized that the State party must keep the Committee informed of the measures it was taking to ensure the implementation of the Convention by regularly submitting relevant periodic reports.

6. The periodic report under consideration did not fully describe the implementation of all the articles of the Convention, and she urged the delegation of Swaziland to take into consideration the Committee's revised general guidelines regarding the preparation of reports.

7. She asked whether the so-called Tinkhundla electoral system did not have the effect of reducing electors' choice, which would be contrary to the provisions of article 5 (c) of the Convention. Citing paragraph 7 of the report, which stated that the Race Relations Act covered any act of discrimination motivated by race or colour, she observed that racial discrimination, as defined in article 1 of the Convention, had a broader meaning since it covered "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin".

8. She had noted an apparent contradiction between paragraph 10 of the report, in which it was stated that discrimination on grounds of race or

colour was now unheard of in Swaziland, and reports published by the United States Department of State that there was a feeling of hostility towards expatriates accused of discrimination against the majority. Had the Government taken action on its decision to amend the Race Relations Act in the light of the new forms of racial discrimination and the relevant provisions of the Convention?

9. The same source had stated that in 1996 a national strike had been called off by the trade unions on condition that harassment of trade unionists by the police ceased, that the Swaziland Federation of Trade Unions (SFTU) enjoyed free access to the electronic media and that the Government agreed to international mediation in settling labour disputes. Those reports gave the impression that the provisions of article 5 (e) of the Convention were not implemented in Swaziland.

10. Swaziland should include in its next report information on measures which the Government had taken concerning any ill-treatment, including acts of torture, that might have been perpetrated by the police against private individuals in 1996.

11. The Committee would also like to receive information on action taken pursuant to the intercession by the Special Rapporteur of the Commission on Human Rights in support of Mr. Jan Sithole, Secretary-General of the SFTU, who had reportedly received death threats from the police, had his passport confiscated and been threatened with deportation to Mozambique. She would also like to know whether the prohibition of political parties imposed 20 years before under the state of emergency was still in force.

12. The decision to maintain the death penalty in Swaziland ran counter to article 5 (a) of the Convention. She would welcome clarification of the situation of the seven people who had been sentenced to death by Swazi courts and had lodged appeals. What was the situation of the judges who had protested against the establishment of a committee to evaluate and punish the professional conduct of judges and other judicial officials, which in their view had jeopardized the independence of the judiciary?

13. In connection with the treatment of refugees, she would like to know more about the frontier incidents in which the Swazi police had reportedly arrested and tortured Mozambican citizens.

14. Referring to a report of the Committee to the General Assembly (A/49/18) in which attention had been drawn to the emergence of new forms of racism against migrant workers, refugees and ethnic minorities, she stressed the need to implement education programmes geared to combating racism and asked whether any programmes of that type existed in Swaziland.

15. Mr. CHIGOVERA requested the Swazi delegation to give details of the situation of the Zulu population who had migrated from KwaZulu and of the status of the Tongas in Swaziland. Were they fully-fledged citizens and were there any programmes aimed at protecting their culture, and notably their language? He also asked for clarification of the expression "7,000 ethnic Swazis" contained in paragraph 13. Did it actually mean Zulus?

16. He stressed the effects of the repeal of the Constitution on the exercise of the rights set out in the Convention, notably with regard to action to combat racial discrimination.

17. The Race Relations Act predated the Convention and was hence less broad in scope; the revised version of the Act should therefore fully incorporate the provisions of the Convention and impose more severe penalties than those laid down at present. To that end, the provisions of the Employment Act should be used as a guide, as they were much broader and consistent with the Convention.

18. Mr. de GOUTTES requested clarification of the scope of the Race Relations Act, which seemed to concern only proprietors or employees of premises open to the public; such a restrictive provision would appear to be at variance with the requirements of article 4 of the Convention.

19. In connection with paragraph 10, in which it was stated that owing to the presence of the Race Relations Act racial discrimination was unheard of in Swaziland, he said the Committee needed further information in order to form an opinion.

20. Like Mrs. Sadiq Ali, he would welcome additional information from the delegation concerning the ill-treatment, violence, threats and arbitrary arrests perpetrated by the police and security forces against opponents.

21. Mr. SHERIFIS, endorsing the observations and questions by Mrs. Sadiq Ali and Mr. Chigovera, noted with satisfaction the fact that Swaziland was treating well the thousands of Mozambican refugees who had settled on its territory; he hoped that in the next report the State party would include information concerning the implementation of article 7 of the Convention. He encouraged Swaziland to endorse the amendment relating to article 8 of the Convention.

22. Mr. AHMADU noted that the report of Swaziland, which covered a very long period, consisted of only four pages. He therefore hoped that the next report would be fuller and would be accompanied by a core document. He observed that, in constitutional terms, Swaziland was confronted with problems similar to those facing Nigeria.

23. He considered the Race Relations Act of 1962 to be somewhat restrictive and asked whether it had been amended and how many cases had been tried under it. The electoral system described in paragraph 4 of the report also seemed restrictive. Was it still in effect? In connection with the legal system described in paragraph 5, he asked whether there was any conflict between the various laws, in particular in the sphere of human rights. Lastly, he would like to know how legislation had been enacted during the period when the Constitution had been abolished and Parliament non-existent.

24. Mr. GARVALOV welcomed the resumption of the dialogue between the Committee and Swaziland. The Government should perhaps seek the assistance of the Centre for Human Rights in preparing its next report and also the core document. It was somewhat surprising to read, in paragraph 10, that due to the presence of the Race Relations Act, "discrimination on the grounds of race

or colour is now unheard of in Swaziland". It was devoutly to be wished that that was the case, but that was the first time a State party had made such a statement.

25. The Citizenship Act of 1992 (paras. 12 and 13) appeared to juggle with the two fundamental principles of citizenship - jus solis and jus sanguinis. It would in fact seem that it was the latter that was applicable in Swaziland. He asked whether persons born in Swaziland but belonging to groups other than the ethnic Swazis, such as the Zulus or the Tongas, automatically had Swazi nationality.

26. Referring to the last sentence of paragraph 4, he observed that there were Western styles of government in which the King did not exercise executive authority.

27. The CHAIRMAN said that Swaziland was in the process of reviewing its legislation in that area and suggested that the delegation should contact the United Nations technical assistance services in order to obtain the text of the relevant legislation in force in countries whose styles of government were similar to those which existed in Swaziland.

28. Mr. DLAMINI (Swaziland) thanked the members of the Committee for their questions and comments, which he took as a sign of encouragement to his country. The questions which the members of his delegation had not answered orally would be taken up in detail in the next report.

29. With regard to the system of electing Members of Parliament (para. 4), he explained that the British-based Constitution had been repealed in 1973 because it had not been functioning. The Tinkhundla system had been installed in 1978 and a Parliament had been reinstated. Since the recent reform of the Tinkhundla system, Members of Parliament had been elected in accordance with a primary system in which the inhabitants of each constituency (of which there were 55) met under the guidance of the community chief to choose the candidates to stand in the general election. That system was more democratic than when the party executive committees designated the candidates. The Members of Parliament were subsequently elected by secret ballot. It should also be pointed out that the public were free to express their views on bills considered by Parliament.

30. On the question of the Zulu population, he said that in 1976 Swaziland's frontiers had been changed, with the result that the country now included the South African territory inhabited by Zulus.

31. The 7,000 ethnic Swazis, who had come from the former KwaZulu-Natal in South Africa, received the same treatment as indigenous Swazis and could obtain a passport and a certificate of citizenship. They were not regarded as refugees, unlike persons from Mozambique. The Tongas, too, were not subjected to discrimination, Swaziland was in fact a homogeneous country.

32. Zulu was not taught in school, but many Swazis spoke it as it had been taught until independence under British rule, which had favoured Zulu over Swazi. French and Portuguese were also taught, in the interests of communication with neighbouring countries.

33. The commission set up to reform the system which had replaced the 1973 Constitution had been mandated to draft a new Constitution. The next report would give fuller information on that subject; the new Constitution was in any case unlikely to be adopted by Parliament before 1998. The procedure was slow, but the authorities considered that the formulation of what would be the highest law of the land should not be hurried.

34. The CHAIRMAN, speaking as a member of the Committee, expressed satisfaction at the constitutional review procedure under way in Swaziland. The length of that procedure was characteristic of a democratic system.

35. Mr. MATSE (Swaziland) said that the commission set up to draft a new Constitution would also have to review legislation whose scope was considered insufficient. However, the definition of racial discrimination contained in the Race Relations Act of 1962 had been expanded.

36. In connection with the allegations by the United States Department of State that expatriates had been attacked in Swaziland, he said that those cases had concerned acts of vandalism against the property of foreign investors. His Government was doing everything in its power to protect such property, but the acts of vandalism did not have racial overtones.

37. The Government had set up a tripartite forum comprising the SFTU, the Employers' Federation and government representatives. The forum was considering the 29 applications, of a legislative, vocational and constitutional character, which the SFTU had submitted to the Government.

38. In the case of Mr. Sithole, Secretary-General of the SFTU, there was so far no evidence that he had received death threats from the police, and the investigation was continuing. Mr. Sithole, who had a Mozambican father and a Swazi mother, was entitled, under the new Citizenship Act of November 1992, to Swazi citizenship and was therefore in no danger of being deported to Mozambique.

39. In Swaziland the press was free. He denied that the police resorted to the so-called "Kentucky methods" of interrogation, as reported by the United States Department of State. An arrest warrant was essential for any person to be arrested.

40. Mr. DLAMINI (Swaziland) stressed that journalists were much freer in his country than in other African countries. However, they were legally obliged to respect the ethics of their profession and not to indulge in sensationalism.

41. There were no political prisoners in Swaziland. Any person who was arrested was informed of the charges against him within 48 hours and could avail himself of the services of a lawyer. He expressed doubts about the truth of the allegations by Amnesty International. In his view, that organization, like the United States Department of State, did not always seek to verify its information sources. In his country prisoners were often better treated than in certain developed countries. He invited the Committee to visit Swaziland in order to see for itself that the above-mentioned reports about his country were unfounded.

42. The CHAIRMAN pointed out that the Convention did not authorize the Committee to undertake observation missions to countries.

43. Mr. WOLFRUM said that, as a jurist, he would be interested in receiving from the delegation documents on the dual system (para. 5) which had replaced the Constitution in 1973. He agreed with the delegation that constitutional reform must be undertaken in an unhurried fashion. He would also like to know for what reason the Citizenship Act had been amended in 1992. Had the idea been to place men and women on an equal footing? And why had the frontiers of Swaziland been modified just a short time before, given the fact that Swaziland was a very ancient kingdom.

44. Mr. ABOUL-NASR assured the delegation that the Committee did not automatically give credence to reports reaching it from NGOs or other bodies. It mentioned them only in order to elicit the reactions of delegations.

45. Mr. RECHETOV observed that the consideration of reports constituted above all an opportunity for dialogue.

46. Mr. SHAHI thanked the Swazi delegation for its open-mindedness, which had led to a fruitful dialogue with the Committee.

47. Mrs. SADIQ ALI (Country Rapporteur) thanked the delegation for the information it had provided to the Committee. She nevertheless considered that articles 7 and 4 of the Convention should have been dealt with in greater depth. She suggested that the Swazi Government should, in addition to its next report, compile a core document, which could be drafted with the help of the secretariat.

48. The CHAIRMAN announced that the Committee had thus completed consideration of the fourth to fourteenth periodic reports of Swaziland.

49. The Swazi delegation withdrew.

Draft concluding observations of the Committee concerning the fourteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (CERD/C/50/Misc.1, future CERD/C/304/Add.20, distributed at the meeting in English only) (continued)

Paragraph 4 (continued)

50. The CHAIRMAN invited members to resume consideration of paragraph 4 of the draft concluding observations, which had been left in abeyance, the term "non-incorporation" having given rise to problems.

51. Mr. CHIGOVERA said that he had proposed the deletion of the part of the sentence with which he disagreed, but he was prepared to reword it using appropriate terms.

52. Mr. van BOVEN considered, like Mr. Chigovera, that States parties were not obliged to incorporate the provisions of the Convention in their domestic law. They were free to ensure the implementation of the Convention as they saw fit in the light of their constitutional system. He proposed, although

such wording did not appear to be fully satisfactory, that the words "restrictive interpretation of the provisions" should be replaced by "restrictive interpretation of the full substance".

53. Mr. ABOUL-NASR observed that the reservation expressed by the United Kingdom had not given rise to any objection. It therefore seemed to him to be unfair to criticize the restrictive interpretation of the provisions of article 4.

54. Mr. WOLFRUM proposed that the part of the sentence in question should read: "as well as its reservation, which in effect restricts the interpretation of".

55. Mr. RECHETOV considered that that wording introduced an unnecessary negative element, which could be averted by saying "with regard to the non-incorporation of the provisions of the Convention covering its object and purpose".

56. Mr. CHIGOVERA proposed the following wording which would, he hoped, overcome the difficulties raised: "It is noted that the State party has not given full effect to the provisions of the Convention in its domestic legal order, and in particular that its restrictive interpretation of the provisions of article 4 of the Convention may hamper the full implementation of the provisions of the Convention in the State party".

57. Mr. ABOUL-NASR repeated that the United Kingdom had expressed a reservation to article 4 of the Convention in accordance with its legislation, and that reservation had been accepted. The Committee could recommend the withdrawal of that reservation but could not criticize its restrictive aspect.

58. Mr. WOLFRUM said that great caution should be exercised on the question of reservations. The Committee would shortly draft its concluding observations about a State party which had expressed numerous reservations to the Convention, and he drew attention to article 20, paragraph 2, of the Convention, and in particular the second part of the first sentence of that paragraph, which stipulated that no reservation would be allowed if it had the effect of inhibiting the operation of any of the bodies established by the Convention. There was a lot to say on that subject, but at the present stage the Committee must try to find a wording which was as neutral as possible. He therefore suggested that the Committee should mention the fact that a reservation had been expressed and that it regretted the effect of that reservation.

59. Mr. van BOVEN considered that it was not necessary to refer explicitly to the reservation expressed.

60. Mr. CHIGOVERA said that he would endorse Mr. Wolfrum's proposal in a spirit of compromise, but considered that the Committee, as an organ which monitored the Convention, was perfectly entitled to express critical views.

61. Mr. GARVALOV suggested that the words "with regret" should be deleted, since they were inappropriate in that part of the concluding observations.

62. The CHAIRMAN proposed that the following text of paragraph 4, which took account of the various suggestions made, should be adopted: "It is noted that the State party has not given full effect to the provisions of the Convention in its domestic legal order, and in particular that its reservation in its effect restricts the interpretation of the provisions of article 4 of the Convention and may hamper the full implementation of the provisions of the Convention".

63. It was so decided.

Paragraph 13

64. The CHAIRMAN proposed that, in view of the amendments made to paragraph 4, paragraph 13 should be amended to read: "Concern is expressed that full effect has not been given to the provisions of the Convention within the domestic legal order, and that without a Bill of Rights individuals cannot be protected from any discriminatory practices that have not been prohibited by Parliament".

65. Mr. CHIGOVERA considered that it was not for the Committee to prescribe a mode of legislation to a particular country, much less recommend that it adopt a Bill of Rights. The question was not whether the United Kingdom had adopted such a Bill, but whether the rights of individuals were guaranteed, in one way or another, by British legislation. He therefore proposed that the words "without a Bill of Rights" should be deleted.

66. Mr. RECHETOV endorsed Mr. Chigovera's amendment, but disagreed with the view that a body such as the Committee could not prescribe a mode of legislation to a particular country or make a recommendation on a particular aspect of its legislation. By acceding to the Convention, States parties had undertaken to accept recommendations from the Committee.

67. The CHAIRMAN said that, if there was no objection, he would take it that the Committee agreed to the amendment proposed by Mr. Chigovera.

68. It was so decided.

Paragraph 14

69. Mr. ABOUL-NASR said that he would raise no objection to the paragraph, even though he was not satisfied with its wording.

70. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt paragraph 14.

71. It was so decided.

Paragraph 22

72. Mr. CHIGOVERA observed that the recommendation contained in paragraph 22 originated from paragraph 13, which had been amended. He proposed that the reference to the "Bill of Rights" should be deleted. Paragraph 22 should

therefore read: "The Committee recommends that the State party consider giving full effect to the provisions of the Convention in its domestic legal order".

73. Mr. ABOUL-NASR considered that that recommendation was redundant and proposed that paragraph 22 should be deleted.

74. Mr. van BOVEN observed that the Committee's concluding observations also served to encourage a national debate between the Government and the parties concerned and that it would be preferable to keep the paragraph.

75. Mr. WOLFRUM proposed that the end of the paragraph should be amended to read: "One means to do so would be the adoption of a Bill of Rights".

76. Mr. GARVALOV, recalling that he had raised the question during the consideration of the United Kingdom report, felt that the Committee was perfectly entitled to make such a recommendation. That type of recommendation did not imply that States were unaware of the provisions of the Convention, but that they were not taking sufficient account of them. In his view, the initial wording of paragraph 22 should be retained.

77. Mrs. ZOU Deci agreed with Mr. Garvalov, particularly since the United Kingdom delegation had informed the Committee that a draft Bill of Rights had been discussed in Parliament.

78. The CHAIRMAN suggested that Mr. Chigovera's amendment of the first part of the paragraph should be adopted and that the reference to the "Bill of Rights" in the second part should be retained.

79. Mr. CHIGOVERA considered that it would be inconsistent to keep that reference, which had been deleted from paragraph 13. His objections remained the same.

80. Mr. RECHETOV said that he was not opposed to the amendment proposed by Mr. Wolfrum, but noted that several members of the Committee supported the retention of the initial wording of the paragraph.

81. Mr. SHAHI considered that the compromise suggested by Mr. Wolfrum was reasonable. The Committee was asking the United Kingdom not to adopt a Bill of Rights, but simply to consider such a step. In view of the suggestions by Mr. Wolfrum and Mr. Chigovera, he proposed that the paragraph should be amended to read: "The Committee recommends that the State party consider giving full effect to the provisions of the Convention in its domestic legal order, and one means of doing so could be the adoption of a Bill of Rights".

82. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt paragraph 22, as amended.

83. It was so decided.

Paragraph 29

84. Mr. ABOUL-NASR proposed that the paragraph should be deleted.

85. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to delete paragraph 29.

86. It was so decided.

Paragraph 30

87. Mr. WOLFRUM proposed that paragraph 30 should be adopted since the recommendation it contained related to an administrative matter.

88. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt paragraph 30.

89. It was so decided.

Paragraph 32

90. Mr. ABOUL-NASR, supported by Mr. CHIGOVERA, considered that the recommendation to the People's Republic of China could not appropriately be included in the concluding observations concerning the report of the United Kingdom.

91. Mr. RECHETOV replied that the Committee was simply expressing the wish that the People's Republic of China, which was a party to the Convention, would transmit information on Hong Kong. The fact that the recommendation was made in the concluding observations concerning the report of the United Kingdom was merely a technical matter.

92. Mr. GARVALOV proposed that the passive voice should be used and that there should be no explicit reference to China in the paragraph, which should read: "The Committee expresses the hope that with the change of sovereignty over Hong Kong, with effect from 1 July 1997, the Hong Kong Special Administrative Region will be given due attention in periodic reports".

93. Mr. ABOUL-NASR observed that what was involved was not a change but a return of sovereignty; the proposed wording was unclear.

94. Mr. CHIGOVERA pointed out that the report under consideration was that of the United Kingdom, that what was involved was indeed a return of sovereignty and that the question raised was pointless since China had, in its most recent periodic report, transmitted information on all the territories under its jurisdiction.

95. Mr. WOLFRUM, supported by Mr. YUTZIS, agreed with Mr. Chigovera that there was no reason to assume that China would not transmit information on Hong Kong and proposed that paragraph 32 should be deleted.

96. The CHAIRMAN noted the views of the majority of the members of the Committee and proposed that paragraph 32 should be deleted.

97. It was so decided.

Additional paragraph

98. The CHAIRMAN announced that Mr. de Gouttes had proposed that the following paragraph should be added: "The Committee suggests that in its next report the State party include, for a recent year, (a) or (1) a review of the number of cases commenced under the Race Relations Act 1976 and their outcomes; (b) or (2) information on the number of prosecutions for offences of a racist character with an indication of sentences imposed in representative cases".

99. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt the new paragraph.

100. It was so decided.

101. The draft concluding observations of the Committee concerning the fourteenth periodic report of the United Kingdom of Great Britain and Northern Ireland as a whole, as orally amended, was adopted.

102. Mr. SHERIFIS, supported by Mr. ABOUL-NASR, congratulated the Chairman on the objectivity he had displayed on the occasion of the adoption of the draft concluding observations concerning the periodic report of his country.

Draft concluding observations of the Committee concerning the review of the implementation of the Convention in Afghanistan (CERD/C/50/Misc.4/Rev.1, distributed at the meeting in English only)

103. Mr. SHAHI observed that it was at present difficult to know who was governing Afghanistan.

104. The CHAIRMAN said that a communication would be sent to the Afghan Government when that Government became known.

105. Mr. AHMADU recalled that the problem had already arisen in the case of Somalia and hoped that the position taken by the Committee would be consistent.

106. The CHAIRMAN, said that, if there was no objection, he would take it that the Committee wished to adopt the draft concluding observations concerning the review of the implementation of the Convention in Afghanistan, as proposed by Mr. Wolfrum, Country Rapporteur.

107. It was so decided.

Draft concluding observations of the Committee concerning the review of the implementation of the Convention in the Bahamas (CERD/C/50/Misc.5/Rev.1, distributed at the meeting in English only)

108. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt the draft concluding observations concerning the review of the implementation of the Convention in the Bahamas, as proposed by Mr. Lechuga Hevia, Country Rapporteur.

109. It was so decided.

Draft concluding observations of the Committee concerning the review of the implementation of the Convention in the Dominican Republic (CERD/C/50/Misc.6/Rev.1, distributed at the meeting in English only)

110. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt the draft concluding observations concerning the review of the implementation of the Convention in the Dominican Republic, as proposed by Mr. Valencia Rodriguez, Country Rapporteur.

111. It was so decided.

Draft concluding observations of the Committee concerning the review of the implementation of the Convention in Jordan (CERD/C/50/Misc.13/Rev.2, distributed at the meeting in English only)

112. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt the draft concluding observations concerning the review of the implementation of the Convention in Jordan, as proposed by Mr. van Boven, Country Rapporteur.

113. It was so decided.

Draft concluding observations of the Committee concerning the review of the implementation of the Convention in Nepal (CERD/C/50/Misc.14/Rev.1, distributed at the meeting in English only)

114. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt the draft concluding observations concerning the review of the implementation of the Convention in Nepal, as proposed by Mrs. Sadiq Ali, Country Rapporteur.

115. It was so decided.

Draft concluding observations of the Committee concerning the review of the implementation of the Convention in Cameroon (CERD/C/50/Misc.17/Rev.1, distributed at the meeting in English only)

116. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt the draft concluding observations concerning the review of the implementation of the Convention in Cameroon, as proposed by Mr. de Gouttes, Country Rapporteur.

117. It was so decided.

The meeting rose at 1 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1210th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 19 March at 3 p.m.

Chairman: Mr. BANTON

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Draft concluding observations concerning the ninth periodic report of Luxembourg

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning the seventh periodic report of Guatemala (CERD/50/Misc.8)

Paragraph 8

1. The CHAIRMAN said that the word "voluntary" should be changed to "volunteer".

Paragraph 9

2. Mr. CHIGOVERA suggested that the reference to "the Joint Commission" in the second sentence should be replaced by "a Joint Commission".

Paragraph 12

3. Mr. CHIGOVERA, supported by Mr. GARVALOV and Mr. ABOUL-NASR, said that the last sentence, which criticized the death penalty, should be deleted. The punishment provided by the law of a State reflected that State's perception of the seriousness of a given crime and could only be challenged if it was alleged to be directed against a particular racial or ethnic group.

4. Mr. YUTZIS (Country Rapporteur) said that the reference to the death penalty had been included because members of the indigenous population were the ones most often sentenced to that form of punishment, which merely served to exacerbate the climate of violence.

5. The CHAIRMAN said he took it that most members of the Committee wished to delete the last sentence of paragraph 12.

Paragraphs 13-15

6. Mr. WOLFRUM said that in order to avoid duplication with paragraph 15, the words "articles 4 and 5" in paragraph 13 should be amended to "article 5". The three paragraphs should, in fact, be rearranged so that they followed the order of the articles of the Convention.

7. The CHAIRMAN, responding to a point raised by Mr. CHIGOVERA, suggested that, in paragraph 15, the words "incitement to" should be inserted after "prohibiting".

Paragraph 18

8. Mr. SHERIFIS said that a reference should be made to the return of lands to their proper owners.

9. The CHAIRMAN suggested rewording the end of the first sentence: following the word "continues", it should read "especially with respect to the return of lands to indigenous people returning after the armed conflict".

10. Mr. YUTZIS (Country Rapporteur) said that he could endorse that amendment.

Paragraph 20

11. Mr. WOLFRUM said that a reference should be made to the participation of the indigenous population in Parliament.

12. Mr. SHERIFIS suggested that a reference to their participation in the public service should likewise be included.

13. The CHAIRMAN noted that the beginning of paragraph 20 would accordingly read: "It is noted with concern that adequate and proportionate participation of the indigenous population in Parliament, the public service and public life at the national level has not been achieved."

Paragraph 22

14. Mr. GARVALOV said that in order to bring the style of paragraph 22 into line with that of the preceding paragraphs, he suggested deleting the words "the Committee is of the view that".

15. Mr. ABOUL-NASR asked what exactly was meant by the word "bilingual". Most of the languages spoken by the indigenous population had no written form, and he therefore did not see how they could be taught in school. Moreover, it was important to be practical and to avoid generalizations. Surely the Committee did not expect doctors in the faculty of medicine to be taught in all the indigenous languages.

16. Mr. YUTZIS (Country Rapporteur) said that all bilingual teaching posed technical problems. But it was important for people not to lose their sense of tradition, which was conveyed by language. The Government of Guatemala was already offering bilingual education, and the Committee was merely asking it to step up that effort.

Paragraph 23

17. Mr. CHIGOVERA raised the same objection to the last sentence of paragraph 23 as he had raised concerning paragraph 12.

Paragraph 24

18. Mr. de GOUTTES suggested that another sentence should be added at the end of paragraph 24 reading: "The State party is also requested to include in its next report information on complaints received and proceedings commenced concerning cases of racial discrimination." That was the wording often used in other reports.

19. Mr. CHIGOVERA said that the Committee might take as a model a phrase it had employed in relation to the United Kingdom.

20. Mr. WOLFRUM said it was inconsistent to say that articles 4, 5 and 6 were not being implemented, as the concluding observations did at an earlier

point, only to ask for information on their implementation in paragraph 24. He therefore proposed the following wording: "The Committee recommends that Guatemala should fully implement articles 4, 5 and 6 of the Convention and provide information on the measures taken." The second sentence would remain unchanged.

21. Mr. CHIGOVERA said that as the Committee had already made the same recommendation after consideration of the sixth report of Guatemala, he was inclined to leave paragraph 24 as it stood.

22. Mr. ABOUL-NASR said that the reference to articles 4, 5 and 6 should be deleted. The Committee should not be too specific in its approach.

23. Mr. CHIGOVERA considered that since the Committee was repeating an earlier recommendation, it should not delete articles 4, 5 and 6 from the current text. If members wanted a reference to be made to the implementation of other articles, then further paragraphs could be inserted to that effect.

24. The CHAIRMAN said that there seemed to be support for amending article 24 and proposed the following wording: "The Committee reiterates that the State party should fully implement the Convention, particularly articles 4, 5 and 6, and provide information on their application." In a minor drafting change, the next sentence would then begin with the words "It is further suggested". The proposal by Mr. de Gouttes would then be inserted at the end. He took it that the Committee wished to adopt paragraph 24, as amended.

Paragraph 33

25. Mr. ABOUL-NASR questioned whether it was feasible for Guatemala to give publicity to the Convention "in all the major languages of the population". He suggested deleting the words "all the".

Paragraph 34

26. Mr. ABOUL-NASR said that the Committee would set a dangerous precedent by asking the State party to allow it to choose the members of its delegation. What would happen if the delegation consisted of only one person?

27. Mr. SHERIFIS agreed. It was up to Governments to decide the composition of their delegations.

28. Mr. WOLFRUM said that paragraph 34 was only making a mild suggestion; he was in favour of retaining it.

29. Mr. YUTZIS (Country Rapporteur) said that the issue was one of substance. The suggestion in paragraph 34 did not constitute interference in the internal affairs of a State party. It was the Committee's duty to encourage the participation of persons directly affected. If the Committee recommended that the indigenous population should be represented in Parliament and public life, he did not see why it should not ask for representatives of the indigenous population to be present when the Committee discussed matters of concern to them.

30. Mr. AHMADU suggested that the phrase "may wish to include" should be inserted after "State party" in the first line, to replace the verb "invite", in order to convey the idea that the State party was free to exercise its discretion on the composition of the delegation.

31. The CHAIRMAN proposed, in view of the State party's expressed wish to include a representative of the indigenous population, that the sentence should begin "The Committee encourages the State party's plan to include a representative".

32. Mr. CHIGOVERA proposed that after the amendment had been made, the entire paragraph should be included under section C ("Positive aspects") of the document.

33. Mr. YUTZIS (Country Rapporteur) said he was willing to endorse the proposals made but wished to remind the Committee that, in the case of Guatemala, the indigenous peoples represented the majority of the population.

34. Mr. de GOUTTES supported the proposal made by Mr. Chigovera.

35. Mr. BECHETOV said the issue was very important; the Committee should not hesitate to raise the question of representation of indigenous peoples. Furthermore, for certain countries the presence of indigenous persons on the delegation should be made compulsory. In any event, the Committee's recommendation should be presented in mild, diplomatic language so as to make it possible for Governments to determine how they wished to respond to the recommendation. In his view, moving the paragraph to section C would reduce its effect to that of a comment, instead of a proposal.

36. The CHAIRMAN said he had the impression that a majority of members were in favour of making the point in section C. Such a decision would set a precedent, but would not bind the Committee to using section C in that way in the future. He asked the Committee secretary to redraft the paragraph for further consideration.

37. Mr. SHERIFIS and Mr. YUTZIS (Country Rapporteur) proposed that, in view of the connotations of the word "representative", the Committee should welcome States parties' willingness to consider the inclusion of a member of the indigenous population.

38. Mr. HUSBANDS (Secretary of the Committee) proposed the following wording: "The Committee welcomes the stated intent of the Government of Guatemala to include a member of the indigenous population during the presentation of its next periodic report."

Paragraph 16

39. Mr. CHIGOVERA said that since the paragraph under consideration was making neither a recommendation nor a suggestion, it should be placed under section C, "Positive aspects".

40. Mr. YUTZIS (Country Rapporteur) pointed out that the paragraph had been placed in the general context of recommendations and suggestions, following the model used for previous recommendations and suggestions addressed to Guatemala.

41. Mr. ABOUL-NASR asked whether the Committee had in fact received an official invitation to visit Guatemala.

42. After a lengthy exchange of views on this question, in which Mr. ABOUL-NASR, Mr. YUTZIS (Country Rapporteur) and the CHAIRMAN took part, Mr. YUTZIS (Country Rapporteur) assured the Committee that an invitation had been extended to the Committee some years earlier. For various reasons, the visit had not taken place.

43. Mr. AHMADU considered that the words "with appreciation" should be deleted from the first line of the paragraph.

44. Mr. RECHETOV suggested that the Chairman could take a decision on behalf of the Committee if it was later decided that a visit would be made.

45. The CHAIRMAN said that, as far as he recollected, the invitation had been issued orally, in the first instance, by the representative of Guatemala during the consideration of the State party's previous report. It had later been submitted in written form, but the visit had twice been postponed; the Guatemalan Government was now renewing the initial invitation.

46. Mr. ABOUL-NASR said that he could not agree to the inclusion of paragraph 36 in the concluding observations.

47. Mr. de GOUTTES said that the matter could be resolved by placing the paragraph under "Positive aspects" and rephrasing it to read: "The Committee recalls with satisfaction the State party's invitation".

48. The CHAIRMAN said he would ask the secretariat to check the files for evidence of an invitation, and if it was determined that arrangements for the visit could be made and that financial responsibility for the visit had been accepted, the concluding observations could include a paragraph to that effect.

49. Mr. VALENCIA RODRIGUEZ said it was important to retain the paragraph, whether or not it was ultimately placed under section C or E.

50. The CHAIRMAN said he took it that the Committee agreed that he should assume responsibility for the final decision on paragraph 36.

Paragraph 37

51. Mr. ABOUL-NASR suggested that the words "in the present concluding observations" should be replaced by "during the consideration of the report".

52. The draft concluding observations concerning the seventh periodic report of Guatemala as a whole, as amended, were adopted.

Draft concluding observations concerning the ninth periodic report of Luxembourg (CERD/C/50/Misc.11)

Paragraphs 15 and 16

53. The CHAIRMAN asked Mrs. Sadiq Ali (Country Rapporteur) to check on the numbering of the paragraphs to determine whether paragraphs 15 and 16 were missing.

Paragraph 22

54. The CHAIRMAN invited the Committee to consider the amendment suggested by Mr. Aboul-Nasr during the discussion of the concluding observations on Guatemala, namely, to replace "in the present observations" by "during the consideration of the report".

55. The draft concluding observations concerning the ninth periodic report of Luxembourg as a whole, as amended, were adopted.

Draft concluding observations concerning the fourteenth periodic report of Belarus (CERD/C/50/Misc.12)

Paragraph 3

56. Mr. GARVALOV considered that the whole paragraph should be deleted as it was inappropriate for the Committee to take up political issues and to attempt to bring them within the purview of the Convention.

57. Ms. ZOU Dexi agreed with Mr. Garvalov. At the very least, the first line should be deleted.

58. Mr. SHERIFIS endorsed Mr. Garvalov's comments.

59. Mr. RECHETOV said that if the proposal to delete the paragraph was approved, two points should nevertheless be retained: the references to profound economic and social changes and to immigrants and asylum-seekers. He therefore suggested the following amendment to the first sentence "The actual political situation within the country, the profound economic and social changes induced by the dissolution of the former Soviet Union, and the massive influx of immigrants and asylum-seekers are not conducive".

60. The CHAIRMAN accepted the English interpreter's suggestion that the word "present" should be used instead of "actual" in the first line of the text.

Paragraph 11

61. Mr. CHIGOVERA suggested that the paragraph should be deleted.

62. I was so decided.

63. Mr. ABOUL-NASR questioned whether the Committee, in its concluding observations, adequately reflected responses made by States parties.

64. The CHAIRMAN said that subjects of concern should be expressed in the concluding observations only if they remained after delegations had replied.

Paragraph 16

65. Mr. SHERIFIS said that he would support retention of the paragraph only if a similar concern had been expressed about the very large number of States parties in the same situation.

66. The CHAIRMAN considered that the question had been raised in the case of many other, if not all, States parties in that situation.

67. Mr. RECHETOV said that the essential point was made in the first sentence; the second sentence, which was somewhat speculative, should be deleted.

68. Mr. de GOUTTES said that, although the second sentence responded to a particular and often repeated concern of his own and related to a matter of substance, he would agree to deletion on the grounds that similarly detailed comments had not been included in the Committee's observations on other reports.

69. The CHAIRMAN agreed that the Committee should give States parties equal treatment, but to the higher rather than the lower common denominator.

70. Mr. SHAHI said he could join a consensus on deletion but recalled cases in which the Committee had raised the issue of a lack of public awareness of rights and remedies.

71. Mr. de GOUTTES said that, although he could endorse the minimalist solution of deletion, the Committee would be setting its sights higher if it kept the second sentence and subsequently included such wording in its observations in the rare cases where a comparable situation arose and a State party claimed that there had been no complaints of discrimination or prosecution for racial offences.

72. Mr. CHIGOVERA considered that the second sentence clarified the context of the Committee's first comment within the purview of the Convention, and should therefore be retained, whether or not it corresponded to past practice. Such wording would be a starting-point for the Committee's consideration of similar situations in the future, to which it could equally be applied.

73. Mr. RECHETOV pointed out that the content of the second sentence was reflected in the section "Suggestions and recommendations".

74. Mr. ABOUL-NASR disagreed with the assumption that few States parties asserted that there were no cases or complaints of racial discrimination and maintained that it was unfair to single out any State party.

75. Mr. GARVALOV said that equal treatment would require the Committee to reconsider its concluding observations on the reports of all States parties examined at the current session.

76. The CHAIRMAN took it that, in the absence of agreement, the Committee wished to delete the second sentence. The conclusion to be drawn from the discussion, however, was that in future the Committee should equally question all States parties stating that there had been no cases or complaints of racial discrimination.

77. Mr. de GOUTTES endorsed that solution, bearing in mind Mr. Chigovera's comments for the future.

Paragraph 17

78. Mr. ABOUL-NASR said he believed that the representative of the State party had responded to the issue raised in the paragraph.

79. The CHAIRMAN said it was debatable whether a satisfactory answer had been given; he understood Mr. Aboul-Nasr to be requesting deletion. In reply to a question by Mr. Sherifis, he said that no convincing argument had been given as to the reasons for the difficulties encountered by persons wishing to study the Belarusian language.

80. Following a comment by Mr. Shahi, he took it that the Committee wished to delete the paragraph.

Paragraph 19

81. Mr. CHIGOVERA suggested that the paragraph, on the same subject as paragraph 11, should receive the same treatment and be deleted.

Paragraph 25

82. Mr. RECHETOV said that the recommendation for the State party to "study" the reason for the absence of prosecution seemed to imply a requirement for it to undertake research, something that was not demanded of other State parties.

83. Mr. de GOUTTES suggested that the wording might be amended to the effect that the State party should provide a reply to the question about the absence of prosecutions.

Paragraph 30

84. Mr. GARVALOV asked whether it might not be more appropriate to request an updating report rather than a comprehensive report.

85. Mr. ABOUL-NASR proposed that the paragraph should be deleted as unnecessarily repetitive.

86. The draft concluding observations concerning the fourteenth periodic report of Belarus as a whole, as amended, were adopted subject to minor drafting changes.

Draft concluding observations concerning the tenth to fourteenth periodic reports of Pakistan (CERD/C/50/MISC.18)

Paragraph 4

87. Mr. GARVALOV (Country Rapporteur) said that a minor amendment suggested by one member had been omitted from the final text; he would submit it in writing to the secretariat.

Paragraph 7

88. Mr. ABOUL-NASR said that the representative of the State party had referred to the Commission on Human Rights as being an independent, non-governmental body, and requested that its full title should be quoted in the paragraph.

Paragraph 16

89. Mr. ABOUL-NASR suggested the insertion of the word "fully" before "comply" in the second sentence.

Paragraph 17

90. Mr. ABOUL-NASR said that the statement amounted to a judgement on the part of the Committee. It had asked for information and could not pass judgement before having received it.

91. The CHAIRMAN pointed out that the Committee was merely expressing concern, the implication being that any judgement, whether positive or negative, would ensue only after the information became available.

92. Mr. GARVALOV, supported by Mr. WOLFRUM, proposed replacing the words "Concern is expressed at the lack of" by "There is insufficient".

Paragraph 19

93. Mr. GARVALOV suggested that, since it had emerged from the discussion that some of the languages used in Pakistan were spoken rather than written, the latter part of the sentence, after "courts", should be deleted.

Paragraph 20

94. The CHAIRMAN suggested that the paragraph should begin with "As".

Paragraph 21

95. Mr. GARVALOV (Country Rapporteur), responding to concerns expressed by Mr. ABOUL-NASR, proposed that the paragraph should be deleted.

Paragraph 23

96. The CHAIRMAN, following observations made by Mr. SHERIFIS, Mr. WOLFRUM,

should be amended to read: "The Committee recommends that the State party's prohibition of discrimination be brought into line with article 1, paragraph 1, of the Convention."

Paragraph 24

97. The CHAIRMAN said that the correct title of the Commission on Human Rights would be inserted after consultation with the Permanent Mission of Pakistan.

Paragraph 26

98. Mr. ABOUL-NASR suggested that "while appreciating the concern not to encourage ethnic or group differences and distinctions" should be inserted after "The Committee".

Paragraph 27

99. Mr. ABOUL-NASR proposed that "as available" should be inserted before "information".

Paragraph 28

100. Mr. GARVALOV (Country Rapporteur) suggested that "implement" should be replaced by "give effect to".

Paragraph 31

101. Mr. de GOUTTES considered that the Committee should also ask for information on sentences handed down by the courts in respect of persons found guilty of racial discrimination.

102. Mr. ABOUL-NASR suggested that that request should be made in paragraph 35.

Paragraph 32

103. Mr. GARVALOV (Country Rapporteur), responding to observations made by Mr. ABOUL-NASR, proposed that the beginning of the paragraph should be reworded to read: "The Committee recommends that the State party, in its efforts in the field of human rights education and awareness, continue to pay attention also to the establishment".

Paragraph 35

104. The CHAIRMAN said that paragraph 35 would reflect the request for information on sentencing mentioned by Mr. de Gouttes.

105. The draft concluding observations concerning the tenth to fourteenth periodic reports of Pakistan as a whole, as amended, were adopted.

Draft concluding observations concerning the twelfth to fourteenth periodic reports of Bulgaria (CERD/C/50/Misc.23)

Paragraph 9

106. Mr. ABOUL-NASR suggested that "credible" should be deleted from the fourth sentence.

Paragraph 10

107. Mr. ABOUL-NASR proposed that "numerous" should be deleted from the first line.

Paragraph 13

108. Mr. AHMADU suggested that the final sentence should be deleted.

Paragraph 14

109. Mr. WOLFRUM (Country Rapporteur), responding to concerns raised by Mr. Aboul-Nasr, said that reference to the situation of the Turks was implicit in several parts of the draft concluding observations.

110. The CHAIRMAN suggested that the Committee should recommend the State party to provide "such statistical data as is available".

Paragraph 16

111. The CHAIRMAN proposed that the first sentence should be deleted.

Paragraph 20

112. Mr. WOLFRUM (Country Rapporteur), in response to an observation made by Mr. ABOUL-NASR, proposed that "remedy" should be replaced by "procedure".

113. Mr. RECHETOV, supported by Mr. ABOUL-NASR, said that, before the text was adopted as a whole, he wished to stress the fact that he disagreed with paragraph 11 of the draft concluding observations: he did not believe that the prohibition of political parties on ethnic, racial or religious grounds amounted to a violation of the right to establish political parties in general. The Committee was also wrong to make a direct criticism of the Constitution of a State party.

114. The draft concluding observations concerning the twelfth to fourteenth periodic reports of Bulgaria as a whole, as amended, were adopted.

Draft concluding observations concerning the eleventh to thirteenth periodic reports of Iraq

115. Mr. WOLFRUM (Country Rapporteur) said that members of the Committee had made many suggestions concerning the text on Iraq, which he would not have time to collate before the end of the session. He therefore suggested that

the draft concluding observations should be left pending until the fifty-first session in August, which would still leave enough time for them to be included in the report to be submitted to the General Assembly.

116. Mr. ABOUL-NASR agreed with Mr. Wolfrum's suggestion.

117. Mr. RECHETOV, supported by Mr. CHIGOVERA, said that if that course of action was taken, it would be the first time that the Committee had ended its session without adopting concluding observations on a State that had reported to it during the session. That would be difficult to explain and would reflect badly on the Committee. It should therefore take a vote on whether to defer the adoption of the draft concluding observations concerning Iraq.

118. The proposal to defer consideration of the draft concluding observations concerning Iraq was adopted by 12 votes to 2, with 1 abstention.

The meeting rose at 6.10 p.m.